THE EVIL THAT MEN DO

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THE EVIL THAT MEN DO

VOLUME TWO

THE EVIL THAT MEN DO

BY

WILLIAM ROUGHEAD

COMPILED WITH AN INTRODUCTION BY

EDMUND PEARSON

VOLUME II

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MACKCOULL AND THE BEGBIE MYSTERY

Here it is the tale of Begbie, the bank-porter,
stricken to the heart at a blow, and left
in his blood within a step or two
of the crowded High Street.
—"EDINBURGH:
PICTURESQUE NOTES"

ALL GREAT CITIES HAVE THEIR MYSTERIES, their unread riddles of crime, which alternately invite and baffle the ingenious investigator. Edinburgh, despite her relative respectability, is no less rich in such criminous conundrums than are her Scottish sisters. If pride of place in this con-

nection belongs properly to Perth as the scene of the inimitable puzzle known to us as the Gowrie Conspiracy, Edinburgh is a good second with the enigma of Darnley's death in the tragedy of Kirk o' Field. Glasgow, too, can boast her meritorious specimens, though the protagonists are neither of such high degree nor so historically important. Many have set forth to tackle, in Mr. Willet's word, the attaching mysteries respectively associated with Blythswood Square, with Sandyford Place, with Queen's Terrace,[1] and after much healthful exercise of their wits have returned from those excursions no wiser than they went. On this lower plane of Art, to adopt De Quincey's nomenclature, Edinburgh can also show some notable examples, one of which I propose here briefly to examine. The fact that the problem is unsolved and insoluble may induce the reflective reader to protest, in adaptation of Burns' familiar lines:

"I doubt it's hardly worth the while
To be sae nice wi'—Begbie."

But as one of Edinburgh's standard mysteries, noted as such both by Sir Walter Scott and by Robert Louis Stevenson, the fate of the hapless porter is still a matter of legitimate interest and the cir-

[1]The three mysteries referred to are the case of Madeleine Smith, of Mrs. M'Lachlan, and the murder of Miss Gilchrist, For the last, Oscar Slater suffered imprisonment.—E. P.

cumstances attendant upon his taking-off ought not to be forgotten.

At the famous Theatrical Fund Dinner in Edinburgh on 23rd February, 1827, when the identity of "The Great Unknown" was first publicly revealed, and the authorship of the *Waverley Novels* ceased to be a pseudo-mystery, Sir Walter sent to Patrick Robertson, *alias* "Peter of the Paunch," the Falstaff of the Scots Bar, a slip of paper having written thereon: "Confess something too; why not the murder of Begbie?" The humour of Scott's suggestion was much relished at the time, but the modern reader of the anecdote in Lockhart's pages may possibly miss the point. The matter of the witticism was then but twenty years old, and the passage of a century has obscured the reference. That same February, by the way, De Quincey's famous paper, *On Murder, Considered as One of the Fine Arts*, in which the artistry of this crime is cordially commended, had appeared in *Blackwood*.

As you go down the High Street towards the Canongate and reach the Nether Bow, you have upon the left the apocryphal manse of that very real divine, the Reverend John Knox. A little farther east, on the other side of the way, a gloomy pend or close-mouth leads to Tweeddale Court. If you enter this uninviting archway—as I trust a perusal of these pages may induce you to do—

you will find yourself in a short, straight passage, so narrow that you can touch both sides with outstretched hands, conducting to an inconsiderable square. Near the inner end of this alley, on the right or west side, a very dark turnpike-stair gives access to the flats of the superior tenement. Anyone standing within this caverned stairway would be hidden from a person approaching the courtyard from the street, and could, if so disposed, pounce suddenly upon him as he passed. Facing you, across the court, is a venerable fabric, now occupied by Messrs. Oliver & Boyd, the well-known publishers. This "great lodging," built by the Lady Yester who founded a church with which her name is still piously associated, was of old the town mansion of the noble family of Tweeddale. After the Union, however, when Auld Reikie was no more deemed worthy to number peers among her populace, the Scottish nobility removed to London. Defoe, in his *Tour*, notices the place as one of Edinburgh's princely dwellings, "with a plantation of lime trees behind it"; and its spacious and terraced gardens extended even unto the Cowgate, as may be seen in Edgar's plan of 1742. In later years an Episcopal chapel and other buildings encroached upon the site, which has long lost its sylvan qualities, and the lime trees have given place to stone and lime. Early in the following century Tweeddale House,

after suffering divers vicissitudes, passed into the possession of the British Linen Company, and became the head office of its bank.

At five o'clock on the afternoon of Thursday, 13th November, 1806, a tenant of one of the houses in the tenement over Tweeddale Court was making ready for tea. In those primitive times Edinburgh matrons obtained water for household purposes from the nearest of the public wells in the High Street, several of which yet remain to testify to the homely habits of our forebears. So a little girl was sent to fill the evening kettle at the neighbouring common fountain across the street. Down the dark stair leading to the close, darker than ever in the November dusk, the child sped upon her errand, and, reaching the bottom step, stumbled over the prostrate body of a man, then in the article of dissolution. An alarm was raised; lights were brought; a crowd quickly gathered, for at that hour of the day the adjacent High Street was full of passengers; but the man was already dead, struck to the heart by a single savage stab from the knife still driven up to the hilt in the fatal wound. Round the haft was wrapped a pad of soft paper, apparently to protect the assassin's person from contact with the scattering blood. A soldier of the City Guard was actually on sentry duty at the time within a few yards of the spot. Naturally, he saw and heard

nothing. The victim was speedily identified as William Begbie, a porter in the employment of the British Linen Company at Leith, whose duty it was at regular seasons to convey money from that branch to the head office of the bank in Tweeddale Court. He had been robbed and murdered with incredible swiftness within a few paces of the busy thoroughfare, and the murderer, plunging into the human stream, had vanished without a trace. The following particulars of the crime were at once circulated in the form of handbills and published in all the Edinburgh newspapers:

HUE AND CRY

At five o'clock this evening, William Begbie, Porter to the British Linen Company at Leith, was stabbed and murdered in Tweeddale's Close, leading to the British Linen Company's Office at Edinburgh, and robbed of a sealed parcel, in a yellow canvas bag, containing the following particulars, viz. £1300 of Sir William Forbes and Co's. Notes of £20 each; £1000 in Notes of Leith Banking Company of £20 each; £1400 in Notes of different Banks of £20, £10, and £5; 240 Guinea Notes of different Banks; 440 Twenty Shilling Notes of different Banks. In all £4392.

As the weapon with which the murder was committed was found upon the spot, it is requested

that any person who may have sold a common bread knife, with a wooden handle stained of a red colour, will immediately give information as aftermentioned.

Whoever will, within three months from this date, give such information to the Manager for the British Linen Company, the Magistrates of Edinburgh, the Sheriff of the County of Edinburgh, or the Judge of Police, as shall be the means of discovering the Person or Persons who committed the aforesaid murder and robbery, shall receive a reward of

FIVE HUNDRED GUINEAS,

to be paid upon conviction of the offender or offenders. And in case any one of the Associates shall make the discovery, His Majesty's Pardon will also be applied for in his favour.

N.B.—It is intreated that bankers, merchants, and others will take notice of all Notes of the above descriptions which may happen to be presented to them, especially if by persons of suspicious appearance.

William Begbie was seen walking up Leith Walk between four and five o'clock, in company with a man. This person, and any other that saw him, will please to call as above, and give information.

EDINBURGH, *Nov. 13th, 1806.*

The *Edinburgh Evening Courant* of 15th November, in commenting on the crime, remarked: "Immediately on the discovery, the most prompt and decisive steps were taken to trace the perpetrator or perpetrators of this atrocious act. Every house of a suspicious character was strictly searched; parties were dispatched to the roads which lead out of the city in different directions. Several persons were taken up, but still no information has been procured which can give any distinct clue that is likely to lead to a discovery. The murder was committed with a force and dexterity more resembling that of a foreign assassin than an inhabitant of this country. The blow was directly in the heart, and the unfortunate man bled to death in a few minutes. He has left a widow and four children. From the anxiety expressed by all ranks for the discovery of the murderer, we have strong hopes that in our next paper we shall have to announce that wished-for event." On the 17th, however, all that the *Courant* was able to say was, "We regret to mention that, notwithstanding the most active search, no positive information has yet been received from which there is any certainty of leading to a discovery of the murderer of William Begbie."

The authorities had done their best. The "Hue and Cry" bills, printed on the very night of the crime, were distributed throughout the country

by the morning mail-coaches. The same day a meeting of Edinburgh bankers decided that all their notes should be specially marked, so that the stolen ones might the more readily be identified, and the provincial banks forthwith followed suit. On one of the missing notes, as we learn from a letter of Sir Walter Scott to Lady Louisa Stuart, a lad had written some lines of a playhouse song, which it was hoped would be the means of throwing light upon the mystery. Whether or not this note ever came into circulation is unrecorded, but when Sir Walter wrote—April, 1813—it had not yet appeared. "The knife was a remarkable one," writes Sir Walter, "such as bread is sliced with, having a wooden handle; the blade was short, broad, and keenly tempered; it had the shop mark of the person who sold it, and the shop grease was still upon it, so that it had never been used but for the fatal purpose. It had been prepared for the deed by grinding the extremity to a sharp point and double edge." This knife was ascertained to have been bought, in its unimproved state, by an unknown man on the afternoon of the crime. The murderer was actually seen by some children to run out of the close across the High Street and disappear down Leith Wynd. A gentleman returning from Edinburgh to his home in Leith that afternoon met Begbie, whom he knew by sight, going up Leith

Walk towards the city. He noticed "a mean-dressed man, like a porter, on his [Begbie's] one side, who appeared to be walking with him." This was the man mentioned in the "Hue and Cry," but he failed to accept the authorities' invitation.

Among the persons arrested on suspicion and examined by the Hon. Baron Clerk Rattray, then Sheriff of Edinburgh, who, we are told, displayed the greatest zeal and exertion possible to discover the murderer, was one John Hogg, the Perth carrier. John had a bad name with the police, but despite the proverb, that was not equivalent to hanging him. He had been seen in the Canongate shortly after the murder, and would give no account of how he had spent his time that evening; so he was kept in custody until it otherwise appeared that though his business had been sufficiently nefarious —its disclosure would have subjected him to capital punishment—it had nothing to do with the murder. Thus Hogg saved his bacon, and darkness descended again upon the Begbie Mystery.

In the absence of any further news the affair began to be forgotten; but on Friday, 14th August, 1807, the *Edinburgh Advertiser* returned to the subject: "No event has occurred for many years in Edinburgh which more deeply interested the inhabitants at the time than the murder and robbery

of the unfortunate Begbie in November last. The prompt and dreadful dexterity with which the act was perpetrated, the almost immediate discovery of the dead body, and the escape of the murderer through a street crowded with people, before it was dark, form together a combination of circumstances unprecedented. Nine months have now elapsed since the crime was committed; after the strictest search no clue has been found that could lead to detection. On Saturday last, a journeyman mason, in company with two other men, in passing through the grounds of Bellevue, between the Custom-house and Broughton Toll, found at the side of a wall a parcel containing a quantity of bank notes, which on examination proved to be those of which Begbie was robbed. The persons who found the notes carried them to the Sheriff's office. They appear to be large notes only, but from the damage many of them have sustained by the long exposure the exact sum is not ascertained. It is said to be above £3000 in large notes; the small notes, it is said, are not in the parcel." On 3rd September the *Courant* had the satisfaction to report: "The British Linen Company, with a liberality that does them great honour, have made a present of two hundred pounds to the three men (two of whom are masons and one of them a gardener) who lately found the money at Bellevue of which William Begbie was

robbed when he was murdered." No doubt the bank made equally generous provision for the widow and children of their unlucky messenger.

The house of Bellevue occupied the site of the present gardens of Drummond Place, and the grounds included nearly all the land between York Place and Canonmills. "The whole place waved with wood," writes Henry Cockburn in his *Memorials*. "Nothing, certainly within a town, could be more delightful than the sea of the Bellevue foliage gilded by the evening sun, or the tumult of blackbirds and thrushes in the blue of a summer morning." But, alas! in 1802 Bellevue became a prey to the City Fathers, who, falling with philistine fury upon its groves and glades, transformed the fair demesne into a stony wilderness.

Maidment, in a note to *Kay's Portraits*, makes the following curious statement regarding the finding of the notes: "For more than three weeks previous," he writes, "it was rumoured everywhere that they had been found in the grounds of Bellevue. This report must have been circulated for the purpose of leading to their discovery. It is rather curious that the person who found them—a mason—resided at the very place where the murder was committed. He had no difficulty in proving, however, that he was not in Edinburgh at the time." Nothing could be found out as to who had hidden

the notes; the affair but assumed a deeper shade of gloom, and the Begbie business became a synonym for mystery.

Thirteen years later a fresh and unexpected light was shed upon the matter. On 22nd December, 1820, there died in the county jail of Edinburgh a notorious malefactor named James Mackcoull, *alias* Captain Moffat, who had been sentenced to death for robbing the Glasgow branch of the Paisley Union Bank of £20,000. This miscreant, of whose career I shall presently have something to say, was shrewdly suspected of the murder of Begbie. Denovan, the Bow Street runner, who then superintended the Leith police, had been charged with the agreeable task of investigating the prisoner's Cimmerian past, and his memoranda were embodied in a memoir of Mackcoull, afterwards published. He already had some acquaintance with his subject, having seen him in the autumn of 1805 at the Ship Tavern in Leith, and other places in the neighbourhood, during the year before the murder. "I met him often," says Denovan, "on Leith Quay, on Leith Walk, and the Easter Road leading from Leith to Edinburgh. He was sometimes wrapped in a brown surtout and Belcher handkerchief, with what is termed by flashmen a 'penthouse nab' or full-brimmed hat, somewhat slouched and rather shabby; at other times he was dressed in a

black coat and vest, drab cloth or thickset breeches, white worsted stockings, sometimes shoes and sometimes half-boots, a full-brimmed hat and white neckcloth, and appeared rather genteel. Although I had not at the time the most distant suspicion of Mackcoull, yet I recollect distinctly that he disappeared immediately after the murder." Mackcoull was a man of many interests, and his time in Edinburgh was fully occupied in thieving, pocket-picking, resetting stolen goods, and passing stolen banknotes. In a house at the foot of New Street in the Canongate, within easy reach of Tweeddale Court, he lived in gentlemanly retirement, sallying forth every afternoon to Leith by the Easter Road, and returning to his lodging by the Walk in the dusk of the evening. Denovan thinks that he was then planning a robbery of one of the Leith banks, but that his observation of Begbie's daily journey to the city suggested a less laborious mode of transferring to himself a portion of the Company's funds.

In the course of his later researches Denovan succeeded in unearthing one who actually saw the murderer before and after the deed. This man had been a sailor, but when discovered by Denovan was a schoolmaster in Leith, enjoying a high reputation for industry and worth. He told the following tale:

"I was at that time (November, 1806) a boy of fourteen years of age. The vessel to which I belonged had made a voyage to Lisbon, and was then lying in Leith harbour. I had brought a small present from Portugal for my mother and sister, who resided in the Netherbow, Edinburgh, immediately opposite to Tweeddale's Close, leading to the British Linen Company's Bank. I left the vessel late in the afternoon, and as the articles I had brought were contraband I put them under my jacket, and was proceeding up Leith Walk, when I perceived a tall man, carrying a yellow-coloured parcel under his arm, and a genteel man, dressed in a black coat, dogging him. I was a little afraid; I conceived the man who carried the parcel to be a smuggler, and the gentleman who followed him to be a Custom-house or Excise officer. In dogging the man the supposed officer went from one side of the Walk to the other, as if afraid of being noticed, but still kept about the same distance behind him. I was afraid of losing what I carried and shortened sail a little, keeping my eyes fixed on the person I supposed to be an officer all the way up the Walk until I came to the head of Leith Street, when I saw the smuggler take the North Bridge and the Custom-house officer go in front of the Register Office; here he looked round him, and imagining he was looking for me I hove-to and watched him. He

then looked up the North Bridge and, as I conceive, followed the smuggler, for he went the same way. I stood a minute or two where I was and then went forward, walking slowly up the North Bridge. I did not, however, see either of the men before me; and when I came to the south end or head of the Bridge, supposing that they might have gone up the High Street or along the South Bridge, I turned to the left and reached the Netherbow without again seeing either the smuggler or the officer. Just, however, as I came opposite to Tweeddale's Close I saw the Custom-house officer come running out of it with something under his coat; I think he ran down the street. Being much alarmed, and supposing that the officer had also seen me and knew what I carried, I deposited my little present in my mother's with all possible speed, and made the best of my way to Leith, without hearing anything of the murder of Begbie until next day. On coming on board the vessel I told the mate what a narrow escape I conceived I had made; he seemed somewhat alarmed, having probably like myself smuggled some trifling article from Portugal, and told me in a peremptory tone that I should not go ashore again without first acquainting him. I certainly heard of the murder before we left Leith, and concluded that the man I saw was the murderer; but the idea of waiting on a magistrate and communicat-

ing what I had seen never struck me. We sailed a few days thereafter from Leith, and the vessel to which I belonged having been captured by a privateer, I was carried to a French prison and only regained my liberty at the last peace. I cannot now recollect distinctly the figure of the man I saw; but he was well dressed, had a genteel appearance, and wore a black coat. I never saw his face properly, for he was before me the whole way up the Walk; I think, however, that he was a stout, big man, but not so tall as the man I then conceived to be a smuggler."

From his official description in the books of the prison authorities, taken in 1810, it appears that James Mackcoull, then aged 45, was 5 feet 7½ inches in height, stout made, round visaged, red about the eyes and nose, his complexion fresh, his eyes dark, large and sharp, his hair black, and quite bald on the crown. Begbie's height was 5 feet 10 or 11 inches. There can, of course, be no doubt that the supposed officer was the murderer, and in Denovan's judgment there is as little that Mackcoull was the man. The truth of the sailor-dominie's tale was afterwards, he assures us, fully ascertained; but even had his evidence been available at the time, as Mackcoull was then unknown to the Edinburgh police and had left the city immediately after the

murder, it is unlikely that it would have led to his being suspected.

In the autumn of 1807 Denovan saw Mackcoull again in Edinburgh, where he had been living for some time before they met. He remarked that he had just returned from a voyage to the West Indies —a figure of speech, as Denovan learned later, invariably employed by Mackcoull to account for his periodic disappearances after the commission of a crime. He then occupied "genteel lodgings" in Rose Street, was much better dressed than formerly, and frequented the theatres, the gaming-tables, and "select parties of young gentlemen of fortune." The Ship Tavern knew him no more, for his interest in Leith had manifestly waned, and he confined his operations to the capital. He claimed to have invented a new process for staining leather, and exhibited to confiding visitors certain mysterious tubs, which, though capable of absorbing the subscriptions of his dupes, failed unaccountably to produce any return in profits. He coloured, however, his professional pursuits by purchasing the material of his art from a skinner at Canonmills, often going thither too, as he mentioned, merely for the sake of taking the air. "His walk from Mid-Rose Street to the skinner's," says Denovan, "was through Bellevue grounds, and by a kind of footpath which led along the dyke or wall where the

notes were found, to the head of the loch at Canonmills." It was generally known that the bank had put a certain mark on all their large notes, and in Denovan's opinion Mackcoull was afraid to deal with those, so, with a view to deepening the mystery, he placed them where they would readily be found. The notes were seen lying openly in a hole in the wall—a position which could hardly have been chosen either for concealment or security. No sooner was the discovery made than Mackcoull's affection for Canonmills cooled, and he exchanged the genteel air of Rose Street for an obscure lodging at Newington, on the other side of the city, with the object, as he alleged, of benefiting his health. It is known that after robbing the Paisley Union Bank in 1811 Mackcoull hid a portion of the stolen notes in a field near St. Pancras Church, London. The coincidence is instructive.

While Mackcoull lay under sentence of death in Edinburgh jail in 1820, Denovan, who had recently completed his researches amid the purlieus of the culprit's past, sought an interview with the condemned man. He told the Governor that he wanted to ask Mackcoull in his presence a single question relative to the Begbie murder, and requested his close attention to the result. After some general conversation calculated to put the prisoner off his guard, Denovan opened fire. "'By the way, Mack-

coull,' said he, 'if I am correct, you resided at the foot of New Street, Canongate, in November, 1806, did you not?' He stared; he rolled his eyes; and, as if falling into a convulsion, threw himself back upon his bed. In this position he continued for a few moments, when, as if recollecting himself, he started up, exclaiming wildly, 'No, by——! I was then in the East Indies—in the West Indies. What do you mean?' 'I mean no harm, Mackcoull,' replied Denovan; 'I merely asked the question for my own curiosity; for I think when you left those lodgings you went to Dublin—is it not so?' 'Yes, yes, I went to Dublin,' he replied, 'and I wish I had remained there still. I won £10,000 there at the tables and never knew what it was to want cash, although you wished the folks here to believe that they locked me up in Old Start [Newgate], and brought down your friend Adkins to swear he saw me there—this was more than your duty.' He now seemed to rave and lose all temper, and his visitor bade him good-night and left him."

Denovan disposes at some length of the claims of two contemporaneous rascals, respectively credited in popular belief with the murder of Begbie. Both were desperadoes well known to the police, and seem to have been severally in Edinburgh about that date. Bill Thorpe, *alias* Red Will, convicted in 1803 at Warwick Assizes of attempted murder

and robbery, had been relegated to the Hulks for life, but escaping, fled to Edinburgh, where he lived in retirement at Fountainbridge. He was believed to be responsible for robbing the Dunbar Bank, as well as for other burglaries about Leith, and in 1809 was apprehended and examined before the Sheriff. As he bore some resemblance to the man who had bought the bread-knife, the matter was fully investigated; but the authorities were satisfied that Red Will, however deeply stained with crime, was at least in this respect unspotted. He was therefore restored to the seclusion of the Hulks. The other candidate, Richard Wright, *alias* Black Dick, was taken in 1810 by Adkins, the Bow Street runner, for robbing the Whitehaven Bank, an exploit which conducted Dick to the scaffold. His bloodthirsty disposition, combined with other circumstances, suggested that he might be the Begbie murderer, so Adkins was employed to find out the facts. The condemned man, in the article of death, denied all knowledge of the deed; but one of his lady friends disclosed to Adkins that Dick, with certain criminal associates, had been in Scotland about the time in question, and that, in her judgment, he was very capable of committing such a crime. But the main point is that neither of these rogues answered the description of the murderer given by those who saw him, Red Will being a stout,

coarse-looking man, full six feet in height, Black Dick a very plain-looking man, who generally wore a long dark grey frock-coat, and had the look of a horse-jockey or groom—the one was too tall, the other of an appearance insufficiently genteel.

Robert Chambers, in his *Traditions of Edinburgh*, holds that Denovan has made good his case. "The description of the supposed Custom-house officer," he writes, "coincides exactly with that of the appearance of Mackcoull; and other circumstances are given which almost make it certain that he was the murderer." Henry Cockburn, on the other hand, in *Memorials of His Time*, regards Mackcoull's guilt as not proven. Denovan, he tells us, was an old High School-fellow of his, and a clever man. "Many curious and plausible circumstances are gathered together in support of this [Denovan's] opinion," he writes, "but the defect is that the reality of these circumstances themselves is as uncertain as that of the fact they are brought to establish. It is easy to make almost any hypothesis have any appearance of soundness when there is no contradictor." He admits, however, that Mackcoull had certainly a very strong resemblance to the murderer as described by those who saw him.

There is another Richmond in the bloody field, an anonymous assassin whose claim to the distinction must be mentioned. On the margin of his own

copy of Mackcoull's "Life" Sir Walter Scott has written: "Circumstances have gone far to fix this cruel and mysterious crime on one ——, a surgeon in Leith, respectably connected and married to the daughter of a worthy and substantial burgher of Edinburgh. . . . This lad was a profligate and spendthrift, who had exhausted his patrimony, and was in great necessity at the time of the murther. Soon afterwards he became possessed of money, paid his debts, and seemed to live well without any sensible addition to his means. His discourse frequently turned on the murder of Begbie, and the story seemed to haunt him. I have been told that suspicion had approached him very nearly, when he committed suicide. The thing was then smothered, through respect to the feelings of his connections." The only other trace of this elusive practitioner which I am able to discover is in the following statement by Sir Daniel Wilson, apropos of the Begbie tragedy, in his *Memorials of Edinburgh:* "Mr. C. K. Sharpe informed me that a medical man of strangely recluse habits, who had been at the time a student at the University, died in Leith many years after, and on his deathbed he confessed to the deed. But, if so, the fact was known to few. The story now survives as one of the unsolved mysteries of crime."

The impression of the affair made upon Scott at the time is recorded in a letter by him to Sir Adam

Ferguson, dated 16th December, 1806, a month after the murder: "You will expect no doubt that I should give you a little news from Auld Reikie. . . . I will therefore tell you concisely that the country gentlemen are cutting each other's throats about politics, while the blackguards of the town have more sensibly 'done' an unfortunate porter who was loaded with £6000 [*sic*] belonging to the British Linen Company, and was murdered in daylight at the head of the Bank Office Close and within twenty yards of their Secretary. He was most dexterously despatched with a single stab through the very heart, so that he died without a groan, and the assassin escaped with his booty. I declare this story makes me grouze whenever I think of it. The man is probably in the better ranks of life, from the precautions and desperation of the action—very likely somebody on the verge of bankruptcy, that awful interval when the best men are apt to become flurried, and those who are naturally bad are quite desperate. If this be the case, he will probably never be discovered unless by some mere chance, as he will not, like a low ruffian, be either suspected from the quantity of the booty or obliged to fly from his habitation." Problematical the whole question seemed to Sir Walter then; problematical it remains for us to-day.

Whether or not Mackcoull did in fact fill the

rôle assigned to him by Denovan, that at least he was well fitted to sustain it will appear from a survey of his criminous career, to which I now invite the reader. His manifold activities form material for a goodly volume, entitled *Memoir of the Life and Trial of James Mackcoull or Moffat* (Edinburgh, 1822), giving an account of his trials before the Jury Court and the High Court of Justiciary, following upon the robbery of the Paisley Union Bank, illustrated with notes and anecdotes, also a portrait. Another engraving of the hero may be seen in *Kay's Portraits*, together with a sketch of his life based upon the *Memoir*. The anonymous biographer was unfortunately rather too refined for his job. To the admirable autobiography of David Haggart, then recently published, he excepts as having given offence to a respectable class of readers, and of his own subject he observes: "Many striking circumstances and daring robberies in which this remarkable character was engaged have been altogether omitted, as either bordering on indecency or having a tendency to mislead by example. Nothing has been admitted which can in any way be deemed offensive to the feelings of the most delicate." Thus something less than justice has been done to Mackcoull's memory; but even as emasculated by this queasy editor his robust figure stands out in proportions sufficiently impressive.

He was born in London, within sound of St. Sepulchre's bell, in 1763. His father's business was to make for the lieges pocketbooks, of which the son spent his later life in despoiling them. His mother, to whom Jem was wont to apply the tender term "Old Gunpowder," seems to have been a lady of strong but unestimable character, who reared her little brood of six, as we learn, in the very sink of vice. She was celebrated in the social circle which she adorned for her dexterity in stealing pewter pots from places of public refreshment. In view of their educational disadvantages, therefore, it is not surprising that the young Mackcoulls turned out but indifferent citizens. The youngest, Ben, suffered in 1786 upon the New Drop at Newgate for a robbery in Drury Lane. One of the girls, Ann, under the names of Wheeler and of Green, was many times convicted of theft; indeed, she and her mother may be said to have been practically at home in the House of Correction. Jack, the eldest hope, was by his own account a man misjudged, victim of the inveterate malice of Bow Street. He was tried at Stafford in 1807 for robbing the Edinburgh mail and forging indorsations on sundry bills of exchange, but was acquitted; his operations upon the pockets of London playgoers were notoriously successful, and he laboured under suspicion in connection with divers bold burglaries at Blackheath.

But the law never managed to bring him to book; and in his *Abuses of Justice, as Illustrated by My Own Case* (London, 1809), Jack published a vigorous but unsatisfying vindication of his honour.

The amiable traits which distinguished the family were in Jem Mackcoull precociously developed. At a tender age he began to purloin the little playthings of his schoolfellows, and unless caught in the act was never known to confess his guilt. As a child he could stare an accuser out of countenance, while denying the charge with consummate effrontery—a faculty which increased with his years. A peculiar construction of the eye facilitated this useful gift. His earliest recorded depredation was inglorious—the robbing of a vendor of cat's meat by blowing snuff in his eyes and decamping with his exiguous takings. Apprenticed to a leather-stainer in Clerkenwell, the lad spent his spare time in company with a gang of young roughs, and speedily became an adept at "clicking" and "twitching" the hats and shawls of playgoers. The leather-stainer soon dispensed with his services, and he went upon the town a professed thief. A daylight robbery of an old gentleman's watch in St. James's Park had important results: Jem's accomplice was taken, and the victim was prepared to point him out "amongst a thousand men." Another person, too, had recognised him; so Jem, seeing that the game was up,

put himself in the hands of his father, who, to preserve what remained of the family pride, contrived that under an assumed name he should join the Navy. He served with credit as an officer's servant on the West Indian and American stations, and after an absence of nine years returned to London in 1785 with a respectable sum in prize-money and wages. But, alas! these well-earned savings were speedily consumed at the gaming-tables, cock-fights, and ring-matches which he assiduously attended, no less than in the company of a certain section of the fair sex, with whom he was ever a prime favourite; so he soon reverted to his old evil ways of making a living. Genteel and courteous in manner, he was eminent in gulling simple folk, beguiling them with plausible tales while his confederates despoiled them, for his biographer records that he could tell a lie with a better grace than any man alive. As Captain Moffat, master of a West Indiaman, he became an ornament of taverns, his prowess at cards or bottle being equally notable, and he devoted much attention to the study of "doping," or the manipulation of other folks' drink, at which he was soon an adept. To his intimates he was known as the "Heathen Philosopher"—his title to the adjective at least was legitimate; and among his escapades was the robbing of a star-struck baker, whom he induced one night to watch

with him for the appearance of a new arrival among the heavenly bodies. Whether or not the baker found the star, he certainly lost his pocketbook.

At twenty-eight Mackcoull married a lady with whom he had long been intimate. She kept a thriving establishment, termed a "lodging-house" by his discreet biographer. To this step he was urged less by the charms of the proprietrix than by the lucrative character of her calling, the fact that he was hard up, and the knowledge that his usual haunts had grown too hot for him. But matrimony did not quench his sporting instincts; he received stolen goods beneath the domestic roof, contriving for their concealment a secret receptacle by blocking up a window, which with reference to the window tax he humorously called "Pitt's Picture." The police, however, got wind of this work of art, and a warrant was issued for arrest of the collector. A voyage to the West Indies was obviously unavoidable, so Mackcoull left England. He remained abroad for three years, most of which he spent in Germany, where, doubtless, he met with much congenial company, and returning to this country landed at Leith in September, 1805. How he occupied himself in Scotland we have already seen, but one incident of his sojourn, unconnected with the Begbie affair, may be noticed. In the spring of 1806 he was caught pocket-picking in the pit of

the Edinburgh theatre. An officer was sent for, but Mackcoull broke through the crowd and escaped; the officer gave chase, and overtook him in a close or passage called the Salt Backet, leading from the head of Leith Street to the Low Calton. There the officer felled him from behind with a bludgeon, and, fearing that he had killed him, left him lying in his blood and withdrew from the case—a curious commentary on the police methods of the time. But Mackcoull was no tender plant: he recovered consciousness and staggered home to New Street, where he told his landlady that he had been set upon by some drunken sailors. It is satisfactory to learn that he was long confined to bed, and bore for the remainder of his days a deep scar on his head as a memento of the experience.

Mackcoull vanished from Edinburgh immediately after the murder; the same month, as Captain Moffat, he materialised in Dublin, where he enjoyed some notoriety as a footpad. Committed to prison for robbing a man of ninety-six guineas, he was discharged without trial owing to the timely death of the prosecutor, and returned to Edinburgh in the autumn of 1807. How he fared there we know in part, but a word or two more may be added. The inhabitants of Newington, that ingenuous suburb, were much taken with the affability of "the English gentleman," and his company was in great

request. It was remarked of Mr. Moffat, as he then styled himself, that he was an ardent playgoer; though "now pretty corpulent and round" he cared not how much he was squeezed and jostled in the pursuit of his pleasure. Every evening found him fighting his way into the pit of the old Theatre Royal in Shakespeare Square. Pocketbooks, watches, and money disappeared as regularly from the persons of the audience, till patrons of the drama took to leaving their valuables at home. One night, when Incledon was singing and the house was very full, a certain lawyer felt a hand in his own pocket. Indignant at the novelty of the sensation, he sent for the police, and an officer came—by a strange chance the very man who thought he had killed Mackcoull in the Salt Backet the year before. Relieved to find himself free from blood-guiltiness, the officer took our hero into custody, but nothing was found upon him; so Mr. Moffat, having lain some months in jail, was discharged for lack of evidence. Had the Edinburgh authorities communicated with Bow Street, they would have learned what sort of angel they were entertaining unawares.

On his release Mackcoull sailed for London in one of the Leith smacks, and arriving safely, concealed himself in the wilds of Somers Town. In 1809 he revisited Scotland for an extensive tour in the North,

which resembled a paper-chase in respect that he left everywhere behind him a trail of forged notes. Returning to town after a pleasant holiday, to which the only drawback had been a visit to Stirling jail, due to a misunderstanding with the magistrates, Mackcoull made the acquaintance of the celebrated Mr. Houghton or Huffey White. This personage, one of the saints of the Newgate Calendar, had recently escaped from the Hulks, and then occupied retired lodgings in Tottenham Court Road. The meeting, which occurred fortuitously in a tavern in that thoroughfare, was of consequences as pregnant as those attending that of Deacon Brodie with George Smith in 1786. Mackcoull broached his favourite project, the burglary of a Scottish bank; Huffey had a racial prejudice against all things Scots, but agreed to co-operate in any English job. His landlord was a locksmith, John Scoltock by name, skilled in the manufacture of housebreakers' requisites. It was arranged that the partners should leave at once for Chester with an eye to the local banks, and that for greater security Scoltock should forward to them by coach the necessary tools. This excess of caution proved their undoing; the box was broken in transit, the contents were eloquent of their purpose, and the consignees were arrested. Six months with hard labour in Chester Castle was all that Mackcoull made by

the adventure; Huffey White was reinstated in the Hulks.

No sooner was Mackcoull at liberty than he set about contriving his pal's release. In this laudable design he was assisted by Mr. Harry French, a common friend, who of his own motion had lately left the same penitentiary retreat. Fortune crowned their efforts; and when the three adventurers were reunited, Mackcoull proposed as a promising speculation the burgling of the Paisley Union Bank. The needful funds having been raised, the party to avoid publicity left London for Glasgow in a post-chaise, Scoltock undertaking to furnish as before the needful materials of their art, to be paid for when the game was won. In due course Mr. Moffat, a responsible merchant, with Mr. Down and Mr. Stone his cousins, took lodgings with Widow Stewart in the Broomielaw. They had come North, it appeared, on important business, but the habits of these commercial gentlemen were eccentric; they kept the house by day, going forth nightly about ten o'clock and sometimes not returning till dawn. During their stay a box of assorted keys arrived from London. Despite the variety of its contents they failed to satisfy the mercantile requirements of the strangers, and Mr. Moffat had to make a journey to town to get them altered. On Tuesday, 9th July, 1811, the party, having given the widow a

fortnight's previous notice, left their lodgings. When the officials of the Paisley Union Bank in Ingram Street opened the premises on Monday morning, the 15th, everything seemed in order; iron doors, safes, and lockfast places were all secured as usual; but recourse to those repositories disclosed the fact that during the week-end £20,000 in notes had been abstracted. It was Glasgow Fair Week; rogues and vagabonds abounded in the city—a point not overlooked by the robbers in choosing their time; but the presence of our particular scoundrels had not gone unmarked. Early in the morning on Sunday, 14th, a person named Clachar saw from his window three men sitting on a dyke in Stirling's Road counting parcels of bank notes. He was able afterwards to identify Mackcoull as one of the tellers. The travellers were traced to Edinburgh, where they discharged their chaise and, taking another, left for the South; at the Talbot at Darlington they foolishly changed two £20 Scots notes; at Welwyn they were seen at the White Hart sitting round a table covered with Scots notes, and left behind them there a portmanteau to be forwarded to Scoltock's address in London—a fatal blunder. Bow Street was applied to, and when the officers of justice visited Tottenham Court Road they secured not only the box of keys and the portmanteau, but the persons of Scoltock and White—

Mackcoull having left the house but a minute or two earlier. White's pocketbook contained a businesslike memorandum of the amounts of the stolen notes, but the booty had disappeared with Mr. Moffat.

That capable merchant, perceiving that his wares were becoming unmarketable, decided on a prudent step. He opened communications with Sayer, the well-known Bow Street runner and an old friend of his wife, offering to refund the stolen notes on condition that on restitution being made, no proceedings should be instituted against the parties. That such a bargain could be considered seems to us incredible, but the practice was common enough in those unscrupulous days, the banks actually combining to retain an attorney to deal with their depredators. The conditions accepted and the pardons obtained, Sayer and Mrs. Mackcoull waited upon the agent for the bank and delivered to him certain parcels of notes, which when counted were found to amount to under £12,000! The agent, we read, remonstrated, not without reason; but the lady, coolly referring him to White and French for the balance, took her leave. Major Griffiths, in recounting the robbery in his *Mysteries of Police and Crime*, says that Sayer, who died at an advanced age worth £30,000, "had feathered his nest finely with a portion of the proceeds"; but as Mack-

coull admittedly made some £8000 by the transaction, there cannot have been many feathers left for Sayer. Poor Huffey White got nothing beyond a lodging aboard the hulk *Retribution*, to which for former offences he was a third time sent; Harry French, the other victim of Mr. Moffat's friendly move, vowing vengeance, sought for him with a pistol; but the merchant invoked the protection of the police, so French, arrested on an old charge, went an involuntary trip to New South Wales, where he ceased from troubling. As for Captain Moffat, that experienced mariner, the time was ripe for one of his West India voyages, upon which he presently departed.

In 1812, having returned to his old haunts, Mackcoull was arrested in London at the instance of the bank. As, heavily ironed, he sat on the top of the coach which was to take him to Scotland, he was greeted by certain professional acquaintances who resented the part he had played towards his late colleagues. Some remarked that the Captain looked extremely well after his recent voyage; others, in rude allusion to his nose, observed that the convoy was about to get under weigh, for the Commodore had hoisted the Blue Peter. "Nothing was wanting," said they, "to complete his full dress but a nosegay, which he would easily procure among the 'Flowers of Edinburgh.'" Sped by these well-

wishers Mackcoull arrived in Glasgow, where he was committed for trial; but owing to supposed lack of proof was allowed to "run his letters," and so regained his liberty. While in jail he made the bank a sporting offer of £1000 to drop the prosecution, in pursuance of which, Mrs. Mackcoull, his venerable mother, handed that sum to Mr. Harmer. the prisoner's London solicitor, who paid it to the bank's agent. The medium proved to be their own notes! After the demise of "Old Gunpowder," Mackcoull, with rare effrontery, raised an action against Harmer, on the ground that he had parted with the money without his [Mackcoull's] authority, in which he actually succeeded and was awarded costs. Emboldened by these triumphs, Mackcoull now began to dispose in Scotland of the remaining notes, trading openly as a bill-broker under the name of Martin. In 1813 he was recognised and arrested by Denovan. It was believed, however, that having already "run his letters" he could not be again committed for the same offence, so the Magistrates of Edinburgh discharged him, but impounded his bills and drafts, which were subsequently acquired by the bank.

After persistent efforts to recover "his property" by negotiation, Mackcoull sought to obtain redress by legal proceedings. The spectacle of a burglar suing a bank for recovery of the spoil was suf-

ficiently unusual to attract much notice. The litigation lasted for five years, Mackcoull availing himself of every form of attack and defence known to the law. The bank's chief difficulty was to prove that the money with which the bills were bought was part of the proceeds of the robbery; and when after a prolonged struggle they at last forced Mackcoull to undergo judicial examination, nothing to the purpose was got out of him. With boundless impudence he posed as an innocent and much-injured man, and objected, with all the nicety and acuteness of an experienced lawyer, to many of the questions put to him. Confident of victory, he now awaited the result of the bank's action in the Jury Court for "repetition" of the stolen notes. In these circumstances the bank was advised that an expert Bow Street runner be employed to trace the route of the robbers from Glasgow to London, and to collect a chain of evidence from the people of the inns at which they stopped. To this end Denovan was engaged, with such success that the result of his labours, which occupied a month, exceeded the most sanguine hopes of his employers, and were the means of finally routing their truculent adversary.

The case came before Lord Chief Commissioner Adam on 11th May, 1820, Francis Jeffrey and Henry Cockburn appearing for the bank, J. P. Grant and

Archibald Alison for Mackcoull. The proceedings are reported in Murray's *Jury Court Cases*, vol. ii, pp. 308–329. The issues to be tried were, shortly—(1) Whether the defender stole or was art and part in stealing from the office of the bank the notes charged? (2) Whether he received the whole or part thereof knowing the same to be stolen? and (3) Whether certain bills of exchange were bought by him with part of the notes so stolen? While Cockburn was opening the case for the bank a disturbance took place, caused by the entrance of Mackcoull, who pushed his way through the crowded Court till he got close to Cockburn's elbow, where he stood staring about him in an offensive manner, to the great annoyance of counsel. Upon protest made, he had to take a back seat, and Cockburn continued his address. "Mr. White," said he with pleasant humour, "the defender will not be able to call to speak to his character, as he was unfortunately executed some time back for another offence; but a police officer will give evidence as to their intimacy. Harry French, who was once suspected of a murder and robbery, is another acquaintance of the defender; but his valuable services in this hour of need will be also lost, as he is now undergoing a sentence of transportation for life." Much amusement was caused by the reading of a letter written by Mackcoull in 1819, in which

the following passage occurred: "If there is any truth in the story about the bank being at all robbed with false keys, it may, as I am told, happen that this man White, who is said to be my accomplice, may turn out to be *some Edinburgh deacon or magistrate with a gold chain and cocked hat;* for it was by them, along with the procurator-fiscal, that my money was first of all taken forcibly from my person under the pretence of a crime, but for the covered purpose of taking my money. They have dropped the charge, but detained my property. You can have no conception to what length corruption and oppression is gone in this part of the United Kingdom." The words italicised are plainly a dig at the professional lapses of the late Deacon Brodie.

The evidence was purely circumstantial but quite conclusive; the identity of the three "merchants" was fully established by witnesses from Glasgow and by waiters from the Talbot and White Hart Inns, and each stage of their journey southward was clearly traced. When the name of John Scoltock, blacksmith in London, was called, Mackcoull's effrontery deserted him; he rose hurriedly and tried to leave the Court, but so great was the congestion that despite his experience of crowds he was unable to force a passage, and sank down in a faint—so powerfully were his feelings affected by

the unlooked-for appearance of this old friend. The revelations of Scoltock and the confirmative testimony of Mrs. White, "widow of the deceased Houghton White, who was executed at Northampton for the robbery of the Leeds mail," and whose connubial confidences so far as relating to the burglary were admissible in evidence, finally disposed of Mr. Moffat's pretensions to commercial integrity; witnesses from Bow Street produced Huffey's pocketbook, the portmanteau, and the false keys; and the knock-out blow was appropriately delivered by the last witness, Mr. Gibbons, an eminent pugilist, who after the robbery had at Mackcoull's request kindly accepted the custody of some of the notes.

Denovan, to whose zeal and ability the unmasking of Mr. Moffat was mainly due, adds a gruesome detail as to his recovery of the keys, which with other such "productions" had rusted since 1811 in the repositories of Bow Street. He found them, he tells us, "actually covered by Williams' bloody jacket, and the maul and ripping-iron with which the Marrs and Williamsons were murdered in Ratcliffe Highway." How the conjunction of those crimeful relics would have charmed De Quincey!

No evidence was led for the defence, and Mr. Grant addressed the jury. The bank, he argued, had either compounded a felony in taking the

£12,000 from Mackcoull's wife and the £1000 from Harmer, or by their acceptance of those sums had discharged the defender of their claim for civil damage. Only by witnesses of infamous character was the defender directly connected with the robbery; and counsel excepted specially to the admission of the hearsay evidence of White, a convicted felon, apart from which there was no sufficient proof. The Lord Chief Commissioner then charged the jury, who after an absence of twenty minutes returned a verdict for the bank upon all three issues. "We may say with great truth," says a contemporary report, "that no civil trial by jury in Scotland ever excited so much interest, nor was ever there a decision given which afforded more general satisfaction."

Had he won, it was Mackcoull's intention to raise an action of damages against the bank, but this amiable purpose was superseded by his arrest, followed by a charge, on criminal letters, of theft, aggravated by housebreaking. An objection to the form of citation having been repelled (Shaw's *Justiciary Cases*, No. 9, 12th June, 1820), the trial took place on 19th June before the High Court of Justiciary. The evidence adduced in the civil action was repeated with some additions, which included that of Sayer, who had modestly declined to testify in the Jury Court. He proved the restitution of the

£12,000 by the prisoner's wife, and his connection with White and French. Mackcoull had instructed his brother Jack in London to prevent by force and fear the attendance of as many witnesses as possible. Mrs. Mackcoull and others were not to be deterred either by appeals or threats; but these fraternal menaces so terrified Scoltock that he disguised and hid himself. Spotted by one of the Bow Street patrols two nights before the trial, he was taken, and regardless of expense was brought to Edinburgh in a chaise-and-four, arriving there only just in time to add his testificatory nail to the prisoner's coffin. Mackcoull, we are told, was observed to gnash his teeth at this second surprise thus sprung upon him by the blacksmith, to whom he had been assured he might apply the pregnant phrase of De Quincey's connoisseur Toad-in-the-hole, "*Non est inventus.*" The verdict was a foregone conclusion, and the Court pronounced sentence of death.

Curiously enough, the convict's wife, whom he had treated throughout with consistent cruelty, petitioned the Government for his reprieve, and when this was granted, owing, it was said, to some mysterious hold which he had obtained upon one of the Secretaries of State, she ministered to his comforts while in prison. But with the final collapse of all his schemes Mackcoull's fierce spirit

was broken; he lost flesh, his hair turned grey, his mind grew weak and childish; on 22nd December, 1820, already an old man at fifty-seven, he died in jail, beset by visions of the flames of hell, and was "decently interred" in the Calton Burying-ground at his widow's expense. I pretermit the moral inferences drawn by his biographer, which seem to me superfluous as the painting of lilies.

"THE WIFE O' DENSIDE"

THE REPORTS OF PROCEEDINGS IN THE High Court of Justiciary from 1826 to 1829—the first instalment of that valuable series—contain two cases of note, by reason of the strange circumstances of the crimes charged, the importance of the legal questions involved, and the eminence of the

counsel engaged in the defence. The year 1828 is conspicuous in the calendar of crime as that which saw justice done upon William Burke, who with his partner, Hare, had reduced murder, not indeed to a fine art, but to a vulgar trade. His trial is matter of history; but the fame of Mrs. Mary Elder or Smith, which had filled the public mind since the preceding year till it paled before the wider celebrity of the West Port expert, lingers but as a tradition among the braes of her native Angus, in local ballads of "The Wife o' Denside." Sir Walter Scott was interested in her case. He attended the trial, and, as we shall see, has recorded in striking terms his impressions of the prisoner and his opinion of the verdict. It is here proposed to rescue the memory of this "lost lady of old years" from undeserved neglect.

Poisoning has never been popular in Scotland. It is a crime alien to the character and feelings of the people, and its occurrence is relatively rare. The individual gifts of a Locusta or a Brinvilliers, the collective genius of a race of Borgias, find no parallel in Scottish annals. The poisoner commonly appears in our criminal records as the protagonist of some obscure domestic tragedy. Seldom, as in other countries, is he actuated by the larger motives of ambition, the attainment of place or power; and as his ends are petty, so the means which he employs

are curiously limited. The absence of scientific data in the reported cases of early days makes it difficult to tell what deadly drugs were used. Such crimes were often libelled as being committed *per intoxicationem*—not in the modern sense—coupled as a rule with sorcery or witchcraft. But in later times the Scottish poisoner has clung with the persistence of a fixed idea to arsenic, fortunately of all poisons the most uniform in its operation and the most difficult to disguise. From its first recorded use in a tentative way in 1649, to its finished application in the case of Madeleine Smith in 1857, arsenic practically held the field, and has since remained the favourite. This is doubtless due to the common knowledge of its properties and the comparative ease with which it can be procured in various forms. Bold spirits like the late Dr. Pritchard and M. Chantrelle, essaying other methods, have paid the penalty of their rashness.

The year 1827, with which we are now concerned, saw an epidemic of poisoning in Scotland, and three of the four persons severally brought to trial during that period were charged with compassing the death of their victims by arsenic. Despite the strongest presumptive proof of their guilt, each of these conservative practitioners in turn escaped through the postern of "not proven"; the fourth, misled by a taste for novelty and tartar emetic,

was convicted. The marked reluctance of Scottish juries to return a verdict adverse to the prisoner upon purely circumstantial evidence in such cases, which by their very nature preclude the possibility of direct proof, may be noted in passing.

Mrs. Smith, who was forty-two years of age at the date of her trial, was the wife of a well-to-do farmer at West Denside, in the parish of Monikie and county of Forfar. Her husband, David Smith, was considerably her senior. Their family consisted of two sons and two daughters. The lads helped their father in the work of the farm; one daughter lived with her parents, the other was the wife of the foreman. Two women servants, Margaret Warden and Jean Norrie, lived in the house; a third, Barbara Small, slept at the foreman's. Other servants were employed about the farm whose names, excepting those of two sisters, Agnes and Ann Gruar, do not concern us. The farm of Denside is situated some six miles northward from Broughty Ferry, on the uplands overlooking the estuary of the Tay, and within sight of the smoke of Dundee. Here the Smiths had lived for twenty years, enjoying the reputation of respectable, thriving folk, whose prosperity was the ripe fruit of industry and thrift. Margaret Warden, a girl of twenty-four, was the daughter of a decent, hard-working widow who lived at Baldovie, some distance from Denside.

Mrs. Warden had been left in poor circumstances, with three young children, and, in her own words, she was "greatly beholden" to a sister of Mr. Smith for help in bringing up her family "after her man's death." No doubt it was due to the good offices of this kind friend that Margaret was engaged at Denside. How long she had been in service there does not appear, but four years before the time of which we write, when in her twenty-first year, her condition was such that she had to give up her work and go home to her mother's house. There in due course she gave birth to a child. However painful such an occurrence must have been to Mrs. Warden, she fully forgave her daughter and undertook the charge of the infant, which she kept from that time in her own home. Margaret's employers seem to have dealt leniently with her fault; after an interval she returned to Denside, and resumed her work as if nothing had happened. It may be assumed that the father of this child was in no way concerned with the later tragedy; at the trial his identity was not disclosed.

About the end of July, 1826, Mrs. Smith made the unwelcome discovery that her youngest son, George, was "courting" Margaret Warden with a view to marriage. The feelings of a woman who had toiled early and late for her family's worldly advancement and had raised their fortunes to a posi-

tion of credit and respectability, may be imagined. Margaret's unhappy earlier lapse enabled Mrs. Smith to treat her as the principal offender, and she denounced the unfortunate girl in terms which might have excited the envy of that master of invective, Mr. John Knox. Margaret was of a passionate and impulsive temper; probably she returned George's affection, and hoped by marriage with him to retrieve the painful episode in her past, and the language which her mistress applied to her was more than she could bear. She left Denside forthwith, and went to her mother's house. Mrs. Warden seems to have induced her to go back, or she herself may have thought that she had been too hasty; anyhow, she returned to Denside. What happened there we do not know, but a fortnight later she again went home. Perhaps Mrs. Smith had bestowed upon her some further epithets from the vocabulary of the great Reformer. This time the mother believed the rupture permanent, and on returning from her work in the fields a week later she was surprised to find Mrs. Smith closeted with her daughter. Mrs. Smith informed her that she had prevailed upon Margaret to go back to Denside. Mrs. Warden accompanied her visitor to the road. When they had left the house Mrs. Smith remarked, "She wished she [Margaret] was not with child." Mrs. Warden discreetly replied that

she did not know; "it was best known to herself." Whereupon Mrs. Smith "spoke of her daughter's ill behaviour"—doubtless in forcible terms; prophetically observed that if things were as bad as she supposed it would be "a trial" both to herself and Mrs. Warden; and said she was then on her way to Dundee, and "would get something for Margaret" there. That night Margaret Warden returned to Denside to meet her fate. From the evidence adduced at the trial, it is manifest that Mrs. Smith desired to get the girl into her own hands, in order that she might, by criminal means, rid her family of the threatened disgrace. It is likely that the luckless Margaret yielded to this infamous suggestion.

The kitchen at Denside contained a box-bed, one of those unwholesome cupboards, now happily obsolete, in which our sturdy forefathers were nightly wont to enclose themselves, in defiance of the laws of health. The closet in question was shared by Margaret Warden with her fellow-servant, Jean Norrie. Since Margaret's return to the farm her mistress had kept her constantly employed in the fields, ordering her to eat little, work hard, "and take what she had given her." At ten o'clock on the night of Tuesday, 5th September, 1826, the two girls were sitting by the kitchen fire, resting after the labours of the day before going to bed, when Mrs. Smith came in with "something in a dram

glass" and a teaspoon in her hand. The glass was nearly full of a thick white mixture which resembled cream of tartar. Mrs. Smith made no statement regarding its contents, but said that she had been taking some of it herself, and would let the girls taste it. She dipped the teaspoon into the mixture and held a little of it to Jean Norrie's lips, and handed the remainder to Margaret, who swallowed it without remark. She then gave her a lump of sugar, and left the kitchen. Jean had sufficient of the stuff in her mouth to know that, whatever it was, it certainly was not castor oil. She barely tasted it, and suffered no ill effects. The girls then went to their box-bed, and silence fell upon the farm. In the night Margaret Warden was taken seriously ill, but she did not rouse her bedfellow, who slept till morning.

Jean Norrie says in her evidence that when she awoke next day (Wednesday the 6th) she found her companion up and trying to light the fire. Margaret "grew sick," and she had to help her back to bed. She then went out to her work in the fields, and on coming in to dinner at mid-day found Margaret still in bed, "very ill." She returned to her work, and when she got home again in the evening about six o'clock, she asked the invalid if her mistress had been "owning her" (attending to her) during the day, to which Margaret answered,

"Rather too weel!" So ill did the girl appear, that Jean told her she feared she was dying. "Some folks would be glad o' that," was the significant reply. They slept together that night, and next morning (Thursday, the 7th) Margaret was much worse, her symptoms being those usual in cases of arsenical poisoning—sickness, thirst, internal pain, etc. Her mistress and Jean attended to her throughout the day, and sat up alternately with her during the night. She asked frequently for her mother, saying if she did not see her soon "she never would"; and Mrs. Smith, in Jean's presence, bade her "wheesht and haud her tongue, till she saw how her physic worked." Jean had previously been told by Mrs. Smith that she had given Margaret castor oil that day. On Mrs. Smith prescribing whisky as likely to allay the internal inflammation, Jean plainly told her that she thought Margaret "had got eneuch o' that or some ither thing, she could not tell what, for sik a purgin' an' vomitin' she never saw"; and the patient called to her from the bed that her mistress had already "burnt her inside with whisky." Mrs. Smith then explained that she had exhibited that stimulant because Margaret "had such a wheezle in her breath," but Jean continued sceptical: "she kent ither things hersel'." When alone with the girl, she warned her to take nothing further from her mistress. It is obvious

from this episode that Jean Norrie well knew Mrs. Smith had been drugging Margaret for a particular purpose, but she had no worse suspicion of her mistress at the time.

Early in the morning of Friday, the 8th, Mrs. Smith, yielding at length to the girl's repeated request, sent Barbara Small to Baldovie to summon Mrs. Warden to her daughter's deathbed. Barbara told Margaret of her errand; "she seemed pleased-like," and bid Barbara "tell her sister to go to the Ferry for the doctor." This was the first the mother had heard of the illness, but she at once sent a message for Dr. Taylor of Broughty Ferry, and herself hastened to Denside. Cholera morbus and typhus fever were prevalent in the district, and it was a natural assumption that Margaret had been attacked by one or other of those fell diseases. Mrs. Warden found her daughter crying out in great pain, and complaining that she was "burning." She remarked that her hands were cold, and the girl sadly replied "they wad be caulder yet." In her mother's pathetic phrase, "she took hersel' for death." At one o'clock that afternoon Dr. Taylor arrived at Denside. Mrs. Smith met him at the door and took him into the parlour. She told him that her servant had been ill since Tuesday night, and correctly described the symptoms. He asked if she had given her any medicine, and Mrs. Smith

replied, nothing but some castor oil. He then asked why a doctor had not been sent for sooner, and she said that she had not thought there was any danger, adding that the girl was a "light-headed cutty," on account of which she had not paid her the attention she might otherwise have done. She also said that she understood the girl was *enceinte*, and asked if he should know if that were the case, and whether the sickness, etc., would not have the effect of inducing a miscarriage. The doctor interrupted her questions by desiring to see the patient. He then went into the kitchen, where he found the girl at the close of a fit of sickness. Dr. Taylor describes her appearance as follows: "Her countenance was sunken and ghastly; the whole body, and particularly the hands and feet, were covered with a cold perspiration; there was no pulse at the wrists or temples, and very indistinct pulsations over the heart—about 150 in a minute. I tried to rouse her a little by speaking to her, and asked when she was taken ill. After the question was twice put, she replied that she was taken ill on Tuesday night with vomiting, purging, and pain in the bowels, particularly in the side; I understood her to mean that these were the first symptoms." Her mother was at the bedside during the interview. Having otherwise satisfied himself of the correctness of Mrs. Smith's diagnosis of the girl's condition, Dr.

Taylor continues: "I found her in such a state of exhaustion, her replies so difficult, and her case altogether so hopeless, that I did not think it right to put any more questions." He therefore returned to the parlour and told Mrs. Smith that the girl was dying. She received the information without any expression of feeling, and remarked that she had sent for a medical man to take the responsibility off her own shoulders. She resumed her former inquiries regarding the probable effect of the continued sickness, observing that "if the gudeman kent it [Margaret's condition], he would be like to tear down the house about them." Evidently, for her son's sake, she had concealed the girl's situation from her husband. Dr. Taylor then left the house, having formed the impression that Margaret Warden was dying of cholera. He had at the time no reason to suspect that she had been poisoned.

The last words of the dying girl, uttered in presence of Mrs. Warden, Jean Norrie, and Ann Gruar, are highly important. She called Norrie to the bedside, and holding her hand, said, "Jean, ye ken wha is the occasion o' me lyin' here?" "Ay," replied the other, "will you forgie them?" "Yes," answered Margaret, "but they'll get their reward." When left alone with her daughter the mother asked if anybody had hurt her or given her

anything, to which she replied, "Jean Norrie will tell you all about it," and being further pressed, she said, "My mistress gave me——," but was unable to complete the sentence. At nine o'clock that night Margaret Warden died. The mother remained at Denside till the following morning to prepare the body of her daughter for the grave. Nothing further was said by anyone at that time regarding the cause of death. Mrs. Warden seems to have been afraid to ask; Norrie was afraid to speak. On her return home on Saturday, the 9th, however, the widow told her other daughter what Margaret had said, bidding her keep it a secret, but did not then tell her son—"because it could not bring her [Margaret] back, and would bring disgrace upon the Denside family." She afterwards explained her silence as due to consideration for Mr. Smith's sister, who had befriended her, as already mentioned.

Mrs. Margaret Smith, the farmer's sister-in-law, calling at Denside on the Saturday, was told by Mrs. Smith that Margaret had died of "the fever," that the reports as to the girl's condition were unfounded, and with reference to some discoloration of the corpse, that the doctor had said all who died of "the fever" were of that colour. The same day Mrs. Smith informed Barbara Small that Margaret

had died of water in the chest, and that Dr. Taylor had told her so. These statements were all equally false.

On Sunday, the 10th, the second day after the death, the body was buried in the parish churchyard of Murroes, in a plain coffin, with the inscription, "M. W. aged 25." But the secret of Margaret Warden's death was not to lie hid in her humble grave. Within a week, from some unknown source, there arose and quickly spread throughout the countryside a rumour that the dead girl had been poisoned by her mistress to avert the consequences of a liaison with her son. Information was lodged with the authorities, and on Saturday, 30th September, twenty-two days after death, the body was exhumed by warrant of the Sheriff, and a post-mortem examination was made by Drs. Johnston and Ramsay of Dundee, assisted by Dr. Taylor. The internal organs, which were found to be remarkably well preserved, bore obvious traces of acute inflammation, and certain portions were removed for further examination and chemical analysis. Meanwhile, the Procurator-Fiscal continued his inquiries into the case, and as the result of these Mrs. Smith was summoned for judicial examination before the Sheriff at Dundee. It being alleged on her behalf that she was too unwell to be brought so far, Dr. Johnston was requested by the

Sheriff to visit her and ascertain if she was in a fit state to be examined. He reported in the affirmative and the examination accordingly took place on 2nd October at Four Mile House, a wayside inn situated between Denside and Dundee. She went, unwillingly enough, in a coach, the doctor, her husband, and one of her sons accompanying her. On the way, Dr. Johnston told them, in reply to a question, that arsenic had been found in the body, whereupon Mrs. Smith remarked that "the girl had vomited so much that she wouldn't have thought anything could have remained in her stomach." At the trial objections were taken to this examination on the ground that Mrs. Smith was then in an hysterical condition, and unfit to be examined. How the evidence stands with regard to this point we shall see later.

The more important statements in Mrs. Smith's declaration are as follows: Margaret Warden took ill on the night between Tuesday and Wednesday, 5th and 6th September, and on the Wednesday, Thursday, and Friday "vomited and purged much." She denied that she had put to Dr. Taylor on his visit any questions such as he described, or that she was aware of the girl's condition until she heard it reported after the death. A fortnight before Margaret's illness she had given her a dose of castor oil. On the Monday or Tuesday before the death,

in presence of Jean Norrie, she gave her, in some "lozenger wine" in a dram glass, another dose of castor oil, which she had bought on the previous Friday from one Mrs. Jolly at Dundee. She "never had any poisonous article about her house." If such were used by persons employed to destroy rats there, they furnished it themselves, and she had nothing to do with it. The last time anyone was so employed at Denside was about two years before. In reply to the Sheriff's final question she stated, "*That the declarant got no drug or other such article from any other person than Mrs. Jolly on the Friday preceding the death of the girl.*" The Sheriff, in whose presence the declaration was emitted, afterwards deponed that no objection was made to her examination either by herself or by her husband, who was present the whole time, nor was anything said as to her mental condition. "During her examination," says the Sheriff, "she was perfectly calm and collected till she came to the last question, when, after it was thrice put by me and thrice answered, she became agitated, gasped, and fell back. I immediately started up, thinking she was unwell, when she suddenly started up, too, and said nothing ailed her." The significance of this incident will afterwards appear. As the result of the examination, Mrs. Smith was committed to the prison of Dundee.

A night in the cells may have stimulated the prisoner's memory, or the line which the fiscal's inquiries had taken may have been communicated to her by her friends; be that as it may, next morning she sent to the Sheriff a request that she might be re-examined, "as she wished to tell the truth," and had certain corrections to make in her former statement. In her second declaration, dated 3rd October, the prisoner said she now remembered that on the Friday before Margaret Warden's death "she got from Mr. William Dick, surgeon in Dundee, something to put away rats." A fortnight earlier she had sent to Mr. Dick by one of his daughters a message, asking him to give her "something" for that purpose. When she got the article she was not told that it was poison—"there was some writing on it, but she does not know what it was." As instructed by Dr. Dick, having mixed the article with meal in presence of Margaret Warden in the kitchen, she put it on the Monday following into "the holes and craps of the walls in a loft above the bothy." She did not tell anyone that she had done so. Denside was then infested with rats; in the byre they were "like a drove of cattle." The farm servants complained of the noise they made. In spite of her laudable desire for accuracy it afterwards appeared that the prisoner's recollection of the facts was still imperfect.

On 12th October Mrs. Smith was fully committed for trial, and on 12th December she was served with an indictment, the diet being fixed for the 28th of that month before the High Court of Justiciary at Edinburgh. The prisoner, availing herself of the provisions of the Act 1701, had elected to "run her letters," whereby the prosecutor was bound to proceed against her within a limited time. The best possible legal advice had been obtained for her, Francis Jeffrey[1] and Henry Cockburn, since equally famous in law and letters, and then the twin ornaments of the Scots bar, being retained in her defence. When the diet was called on 28th December the Lord Advocate, Sir William Rae, who appeared for the Crown, at once moved for a postponement. He had only learned, he said, the day before the nature of the defence to be made, viz., that the deceased had committed suicide. He understood that forty-eight witnesses were to be adduced in support of that defence, which was so contradictory of the evidence laid before him that, notwithstanding the trouble caused thereby to all concerned, he felt it his duty not to proceed with the case until he had an opportunity to investigate

[1]The reputation of Jeffrey (1773–1850) afterwards Lord Jeffrey, as an especially merciless literary critic is probably partly due to the popular confusion of his name with that of Lord Jeffreys of Wem (1648–1689), the Lord Chancellor and judge at the "Bloody Assize" in 1685.—E. P.

the grounds upon which that defence rested. The Court accordingly continued the diet against the prisoner until 12th January, 1827. The length of the pannel's list of witnesses was such the Crown had not completed their precognition by that date, and a further postponement was necessary, the trial being finally fixed for 5th February. All this delay was the result of the tactics of the prisoner's advisers in springing upon the Crown at the last moment the defence of suicide.

On Monday, 5th February, after two false starts, the trial began in earnest. The Lord Justice-Clerk (Boyle) and Lords Gillies, Pitmilly, Meadowbank, Mackenzie, and Alloway, being the whole Lords Commissioners of Justiciary, occupied the bench; the Lord Advocate, assisted by two Advocates-Depute, Robert Dundas, and Archibald Alison (the future historian of Europe), represented the Crown; while Jeffrey and Cockburn, with a junior, Menzies, appeared for the defence. As the case had excited intense public interest, particularly in medical and legal circles, the court was crowded to the doors when the proceedings began at nine o'clock. The indictment charged the prisoner with administering to Margaret Warden on Tuesday, 5th, and Thursday, 7th, September, 1826, within the house of Denside, arsenic mixed with water or some other substance, which she was induced

to swallow as medicine intended for her benefit, and was thus wilfully murdered by the prisoner. An objection taken to the relevancy was repelled, the libel was found relevant, a jury was balloted and sworn, and the following special defences were lodged:—

1. The pannel does not admit, but on the contrary denies, that the deceased died by poison.

2. If, contrary to her belief, it is established that poison was the cause of her death, then the pannel maintains that in all probability it was taken by the deceased herself, who had recently before threatened to destroy herself, or her unborn child, and was of a temper, and in a situation, which made the execution of this threat not unlikely.

3. At any rate the pannel solemnly denies that any poison was administered by her. She was under no conceivable temptation to commit such a crime, and it can be proved by unexceptionable witnesses that her general character renders its commission incredible.

4. The pannel gave the deceased no drug or substance under any false pretence whatever.

5. The pannel pleads Not Guilty.

The examination of witnesses for the Crown commenced and had proceeded until half-past five in the afternoon, when one of the jury was seized with convulsions and was carried out of Court

insensible. Professor (afterwards Sir Robert) Christison, then the "unacknowledged standing medical counsel for his Majesty's interest," as he elsewhere describes himself, happened to be in the witness-box at the moment. Along with Dr. Mackintosh, who was also in Court, he attended the juryman in another room. After the lapse of an hour Dr. Christison returned to Court, and, having been already sworn and under examination when the accident occurred, was examined as to the juryman's condition. Dr. Christison stated that the fit was epileptic, and that the man's memory was affected. In his opinion it was unlikely that the juryman would be able to return to Court that night and go through the rest of the trial. Dr. Mackintosh corroborated. The Court held that in these circumstances it would be improper to insist on the juryman's return to the box, and the Lord Advocate moved that the diet be continued and the pannel recommitted to take her trial before a new jury. In view of the novelty and importance of the point, Jeffrey objected to this course being taken without full argument, and wished the matter kept open in the meantime to allow of consideration and discussion. The Lord Advocate replied that if this course were adopted he would not consent to the discharge of the present jury; the criminal letters were nearly run, and he acted under

great responsibility. The Court, without prejudice to any objections on the part of the pannel to the further proceedings in the case, discharged the jury, continued the diet till the following Monday at ten o'clock, and warned the reporters of the press to abstain from printing any of the evidence already heard.

When the Court met on 12th February all the Lords of Justiciary were present, and the Lord Advocate, in view of the importance of the matter in hand, was accompanied by the Solicitor-General (Hope), this being the first occasion on which the Court had to determine the legality of resuming a trial interrupted by the illness of a juryman. As the debate upon this point occupied no less than seven hours, considerations of space forbid even a summary of that interesting discussion. The professional reader will find it set forth at length in Syme's *Justiciary Reports*. The Lord Advocate having moved that a new jury be empanelled, Cockburn objected to the competency of continuing the trial upon the same indictment. Dundas, who replied for the Crown, maintained that the prosecutor was entitled to proceed with the case. Jeffrey supported the objection; the Solicitor-General said he had nothing to add to what had been so ably stated by Mr. Dundas. Each of the six judges delivered a separate opinion in favour of the Lord

Advocate's contention, and the Court pronounced an interlocutor finding the whole of the former proceedings after the interlocutor on the relevancy null and void, the pannel still subject to trial upon the present libel and by a jury to be balloted for of new, and continuing the diet against her till the following Monday, at nine o'clock.

As a relief from these technicalities the following extract from Sir Walter Scott's *Journal* will be welcome to the general reader. Under date 6th February, Sir Walter writes: "Dined at Sir John Hay's, where met the Advocate and a pleasant party. There had been a Justiciary trial yesterday, in which something curious had occurred. A woman of rather the better class, a farmer's wife, had been tried on the 5th for poisoning her maid-servant. There seems to have been little doubt of her guilt, but the motive was peculiar. The unfortunate girl had an intrigue with her son, which this Mrs. Smith was desirous to conceal, from some ill-advised puritanic notions, and also for fear of her husband. She could find no better way of hiding the shame than giving the girl (with her own knowledge and consent, I believe) potions to cause abortion, which she afterwards changed for arsenic, as the more effectual silencing medicine. In the course of the trial one of the jury fell down in an epileptic fit, and on his recovery was far too much

disordered to permit the trial to proceed. With only fourteen jurymen it was impossible to go on. But the advocate, Sir William Rae, says she shall be tried anew, since she had not tholed an assize. *Sic Paulus ait—et recte quidem.* But, having been half-tried, I think she should have some benefit of it, as far as saving her life, if convicted on the second indictment. The advocate declares, however, she shall be hanged, as certainly she deserves. But it looks something like hanging up a man who has been recovered by the surgeons, which has always been accounted harsh justice." This contingency, fortunately or otherwise, did not arise. Rae was the son of Lord Eskgrove, the eccentric judge whose peculiarities of voice and manner, as Lord Cockburn relates, Scott was wont to mimic, to the delight of the Parliament House.

When the Court met again on 19th February, a new jury was empanelled, and the Lord Advocate adduced his evidence. The first two witnesses called for the Crown were Mr. Kerr, the Sheriff, and Mr. Baxter, the Procurator-Fiscal, who proved the prisoner's declarations, which the Lord Advocate then proposed should be read. Jeffrey, however, objected, and offered proof that the prisoner was unfit to be examined, at the time they were emitted, so the matter was reserved till the close of the Crown case. The next witness was Jean Norrie,

upon whose evidence we have already drawn freely in narrating the history of the case. Jean deponed that when Margaret Warden returned from her mother's house for the last time, she told witness that her mistress had called at Baldovie and insisted on her going back to Denside, saying, "She [Mrs. Smith] had warran' she was with child; but she would have something for her, be the cost what it would." Margaret added that her mistress might as well have told her at once that it was to do her harm. She spoke frequently of things she was getting from her mistress. A fortnight before her death, "on the preparation Saturday, the day before the Monikie Sacrament," she told witness that her mistress had just given her a drink, alleged by Mrs. Smith to be "whisky that the laddies had left," adding that "if it was something to do her harm, it was an awfu' thing for her [Mrs. Smith] to gang where she gaed the morn," *i.e.*, to Communion. When Mrs. Smith heard "the clash of the country" regarding Margaret's mysterious illness and death, she told Jean that "she did not know she [Margaret] was with child, and did not know there was any poison in the house, except some king's yellow that she had hained [kept] to poison the flies." King's yellow, it may be explained, is sulphuret of arsenic. This was probably some of the "stuff" left with Mrs. Smith by a professional rat-catcher, as after-

mentioned. Jean stated that Mrs. Smith had repeatedly asserted after the death that the dose she gave Margaret on the Tuesday night was merely castor oil to relieve her breathing. It appeared that the deceased did suffer, not unaccountably, from shortness of breath. Jean, who had been at Denside since Martinmas, 1825, and milked the cows in the byre, saw no rats there, except one after the prisoner's arrest, nor did she ever hear of poison being laid for them. The deceased never said anything of having taken poison, and witness found nothing of that kind about her bed after her death. The cross-examination by Jeffrey was mainly directed to establish the fact that Margaret Warden had threatened to take her own life. Jean Norrie remembered that the deceased, some time before her death, while they were lifting potatoes in the fields together after the general harvest, had said she was unfit for her work, "and wad surely do some ill to hersel'." She had also said on another occasion that she would be obliged to go away somewhere before the term, but did not know where, "as her mother would not let her come within the door." Jean maintained that she did not think the girl serious, "for she was always a rash creature of her words." She did not actually see her sick on the Wednesday, but found traces of sickness on her clothes on the Thursday morning. In reply to the Court, Jean

stated that she never heard of Margaret buying or having any drugs except some pills which she said she got from her mistress after her last return to Denside. Mrs. Smith seemed "very good friends" with the deceased while attending to her and giving her drinks.

Barbara Small and Mrs. Warden repeated what they knew of the girl's illness and death. Barbara deponed that so far as her knowledge went Margaret was neither melancholy nor low-spirited, and never expressed any intention of doing herself harm. On the Thursday she was so ill that she could not even retain a drink of water, and said that "her inside was burning." That afternoon Mrs. Smith told her, in witness's hearing, "she would be better when the castor oil had wrought." Barbara had been at Denside since Whitsunday, 1826, but never saw any rats, nor was she ever told that poison had been laid for them. A hen and chickens were kept in the loft above the bothy. In cross-examination, Jeffrey elicited that she had seen no sickness on the Wednesday, that Margaret took "a flour cake and a mutchkin of milk" for her dinner that day, and that Mrs. Smith treated the girl kindly during her illness. Mrs. Warden corroborated Jean Norrie's account of her daughter's dying words. She said that she and Margaret were quite reconciled after the birth of the child, and denied she

had ever said anything to indicate that she would not have taken her daughter in, had she returned home. The reader will remember that the girl had in fact been living with her mother, who was aware of her condition, until Mrs. Smith induced her to go back to Denside. In cross-examination, Mrs. Warden gave her reasons for remaining all night at Denside, as before related.

Ann Gruar or Brown, wife of one of the farm servants, also spoke to Margaret's last conversation with her mother. In reply to Jeffrey, she said that she was shearing in the fields with the girl on the Monday before her death. Margaret remarked that she must leave Denside, as she was not able for her work. She did not know where to go, but could not go to her mother; she "wad put an ill end to hersel'." The witness was so shocked by this remark that, ejaculating "God help me!" she went to another rig. She spoke of the matter at the time to a woman in the field (who was not called as a witness), but was unable ever to refer to the subject again, though she often wished to do so—"The Almighty had taken the power from her." Mrs. Smith was always very kind to Margaret. In re-examination, the witness said she had never mentioned this conversation in the field to anyone but the invisible woman. Margaret gave no details

of how she proposed to execute her purpose of self-destruction.

Dr. Dick of Dundee, a most important witness for the Crown, deponed that he was an old friend of the Smith family, and had attended them professionally for many years. On Friday, 1st September, 1826, Mrs. Smith called at his house. "You have forgot my poison for rats!" said she. "What poison?" he asked. "The poison I sent the message about, I was so annoyed with rats," replied his visitor. The doctor said he had received no such message, and did not keep poison; but if it would oblige her, he would procure some for her. He then went out and got an ounce and a half of arsenic from a neighbouring chemist. The quantity was not weighed. "Arsenic" was written on one side of the packet and "Poison" on the other. He handed it to Mrs. Smith, *told her it was arsenic—poison*, and warned her to be very careful in using it. In reply to Cockburn, Dr. Dick said he had known the prisoner for forty years. She was of a humane character. She had suffered from hysteria twelve years before. Mr. Russell, chemist, Dundee, spoke to selling an ounce of oxide of arsenic, marked as above, to Dr. Dick on the date mentioned. Mrs. Jolly, referred to by the prisoner in her declaration, deponed that Mrs. Smith, shortly before her ar-

rest, consulted witness about her health, and bought an ounce of castor oil for her own use. Several other witnesses spoke to points of minor importance, and two of the farm servants who slept in the bothy said they had neither heard rats in the loft, nor did they ever complain to Mrs. Smith of being disturbed by them.

The medical evidence, though lengthy and elaborate, must be mentioned briefly. A verbatim report thereof, with notes and commentaries, was communicated by Professor Christison to the *Edinburgh Medical and Surgical Journal*, No. 91, where it may be studied with profit by the professional reader. "It embraces," writes Dr. Christison, "two very different questions; *First*, the soundness of the prisoner's mind when she underwent her examination and prevaricated so much; and *Secondly*, the cause of Margaret Warden's death—whether she died of poison?—whether she took poison on Tuesday?—whether what she took on Tuesday was the fatal dose?—whether the poison she took was the same with that procured a few days before by the prisoner? etc." With regard to the first question Jeffrey, as already said, had objected to the admissibility of the pannel's declarations, and was allowed to adduce evidence in support of his contention that she was at the time unfit to be examined. Upon this point Dr. Alexander,

surgeon in Dundee, stated that he had attended the Smith family for five or six years. He was called in to see Mrs. Smith on 1st October, 1826, the day before her arrest. She was suffering from a violent nervous attack which he treated as such with antispasmodics. When he left her at five o'clock she was not in a fit state to be examined as a person accused of a crime. Temporary loss of memory was a common consequence of such an attack. He saw her next day in jail after her examination, and found her not thoroughly collected even then. Between these two occasions it was impossible she could have been perfectly recovered. He never saw her in a similar state before. Mr. Crichton, surgeon in Dundee, deponed that some time in December, 1826, he visited the prisoner in jail, and found her in convulsions and foaming at the mouth. He had no suspicion at the time that she was feigning illness, so did not apply any test to settle that point. It is difficult to see the bearing of this gentleman's testimony upon the prisoner's state of health in the preceding October. Rebutting evidence was given by Dr. Johnston, to whose account of the circumstances in which the examination took place we are already indebted. At Four Mile House he asked his patient if she was any worse for the journey, and she replied that she was not. She was in a perfectly fit state to be examined

at that time. He saw her after the examination; there was no change in her appearance. Jeffrey was then heard in support of his objection, after which the Court, without requiring the Lord Advocate to reply, found that the declarations were admissible and that it was for the jury to decide what weight should be attached to them.

With regard to the cause of death and the several questions connected with the administration and effects of arsenic, the result of the medical evidence was generally as follows: As to the cause of death, Dr. Taylor, who when he saw the deceased on her death-bed had formed the opinion that she was dying of cholera, stated that from the symptoms, the examination of the body, and the analysis of the contents of the stomach he had now no doubt that she died of poison, and that the poison was arsenic. Drs. Ramsay and Johnston, who along with Dr. Taylor had conducted the autopsy and the subsequent chemical tests, deponed that arsenic was detected in various parts of the alimentary canal, but particularly in certain yellow particles found in the stomach, and that the result of the inspection and analysis led them to infer that the deceased died of poisoning with arsenic. Jeffrey's cross-examination was directed to showing that the doctors' diagnosis was wrong, and to casting doubt upon the reliability of the tests employed;

but as their validity was endorsed by Professor Christison, and the results confirmed by that gentleman's independent analysis of other portions of the viscera, the evidence for the prosecution remained unshaken upon this point. As to the administration and effect of the arsenic, however, there was some difference of opinion among the Crown doctors. There was no direct evidence of the deceased's symptoms on the Wednesday being so violent as those which commonly follow the taking of arsenic, and she was proved to have had a pint of milk and a scone for dinner that day. Dr. Ramsay held that the fatal dose was the "castor oil" given by Mrs. Smith on the Tuesday night, and that the suspension of symptoms, though remarkable, was not unprecedented. In Dr. Christison's opinion death was occasioned by a dose taken later than Tuesday and more than a day before death, probably thirty-six or forty-eight hours. It will be remembered that on the Thursday Mrs. Smith spoke of having given the deceased "castor oil" again that morning, and bade her wait "till she saw how her physic worked." With regard to the nature of the poison found in the body, both oxide and sulphuret of arsenic were detected by Dr. Christison, who considered that the oxide might either have been converted into the sulphuret in the stomach by a chemical process after

death, or administered during life in the form of king's yellow. Drs. Fyfe and Mackintosh of Edinburgh gave expert evidence for the defence. Dr. Fyfe thought Dr. Christison's explanation of the generation of the sulphuret of arsenic found in the stomach scarcely admissible; he rather thought it had been swallowed in that state. The prisoner, however, had king's yellow in her possession, as we know from her own admission to Jean Norrie. Dr. Mackintosh maintained that the symptoms of cholera and poisoning with arsenic were the same, but on cross-examination he admitted that he believed the deceased had died of arsenic.

Nine other witnesses were called for the defence. Two daughters of Dr. Dick spoke to receiving from the prisoner a message for their father, which they forgot to deliver, asking him "to make up some powder for the rats." They were on a visit to Denside at the time, and the request was made in presence of Mrs. Smith's two daughters, Jean Norrie, and Margaret Warden. Andrew Murray, rat-catcher, said he had been employed to destroy rats at Denside some three years before. He left "medicine," arsenic, in case they should return. He was there again professionally in 1825 at the Mill of Affleck, occupied by Mr. Smith, a mile and a half from Denside. Mrs. Smith complained of rats, and he left some more of "the same stuff"

with her. He had recently visited Denside by request of the prisoner's agents. He then saw no rats but found traces of "the small black Scots rat, and mice." James Millar, foreman at Denside, son-in-law of the prisoner, said he had seen rats at Denside, but none since the preceding Whitsunday, except one which he killed after Margaret Warden's death. William Stoddart, a local elder, said he dined at Denside on 3rd June; Mrs. Smith then complained of rats, and said she must get some "medicine" for them; "what the man had left was spoilt." Thus the "droves" of rats so graphically described in the prisoner's declaration were reduced to one dead specimen of the species. With reference to the alleged threats of suicide by Margaret Warden, Agnes Gruar, sister of Ann Gruar, a Crown witness, deponed to overhearing what passed between Margaret and her sister in the field on the Monday before the girl's death. It is remarkable that sister Ann in her evidence did not refer to the presence of Agnes at the time. Ann Lees, formerly servant at Denside, spoke to a conversation which she had with Margaret Warden in January, 1826. Margaret, referring to her past experience, remarked that rather than face another such misfortune "she would put away wi' hersel'," whereupon witness philosophically pointed out that "the best o' folks might get into a scrape

o' that kind." Mrs. M'Haffie, an itinerant vendor of "little things about the country," said she slept in the barn at Denside two or three weeks before Margaret's death. This lady gave a highly coloured version of a scene in which the girl disclosed her condition, saying that she (Margaret) had got "gross usage" from her mother on a former occasion, rather than submit to which again she would put an end to herself. The witness having exhorted her to repentance in moving terms, Margaret replied that if she (the hawker) disclosed her state to anyone "she would put an end to herself before to-morrow morning." The weight attaching to the testimony of these two witnesses is lessened by the fact that the one spoke to a date some five months before the situation contemplated by Margaret arose, and that about the time referred to by the other the girl, whose condition was well known at Denside, actually lived with her mother for eight days, and only left her home at the urgent solicitation of the prisoner. Robert Esson, merchant, Broughty Ferry, deponed that on the Monday or Tuesday before Warden's death a small boy came to his shop and asked for twopenceworth of arsenic, which he did not supply. This closed the evidence for the defence.

The *Edinburgh Evening Courant* (22nd February, 1827), in commenting on the trial, gives us a

wonderfully vivid glimpse of the prisoner's calm and thrifty mind: "After the lights were brought, one of the candles placed near Mrs. Smith was exposed to a cross-draught and ran down on one side, on observing which she very coolly at different times lifted the candle and turned it to the other side."

At eleven o'clock at night the Lord Advocate rose to address the jury. His speech was a closely reasoned and, one would have thought, convincing argument on behalf of the Crown. With reference to the unprecedented situation which had arisen during the former trial, he remarked that what had happened was an advantage to the pannel, as nearly the whole of his proof had been disclosed. The first question was: Did Margaret Warden die of poison? Of that there could be no doubt. The second question was: By whom was it administered? From the whole tenor of the defence they must come to one conclusion, either that she poisoned herself or was poisoned by the prisoner. Norrie was his leading witness: her means of knowledge and the manner in which she gave her evidence entitled her to belief. It was an answer to one part of the defence that the girl, throughout her illness, cried constantly for her mother. The conversation between mother and daughter, as proved by the mother and two other witnesses, went to

the very root of the case. These words used on death-bed, by a person who knew she was dying, excluded all idea of suicide. Dr. Christison had said that the non-appearance of early symptoms did not absolutely preclude the possibility of poison on Tuesday night; but even if it did, poison was given subsequently, and given by the pannel, for the girl was in bed, and there was no poison in the house except in the pannel's possession. It was proved that Mrs. Smith did give Warden something on Thursday, but from the evidence of Dr. Taylor and her own declaration it appeared that the symptoms dated from Tuesday night. Dr. Christison admitted that if that were so, it would alter his view. With regard to the motive for the crime, they would see from the whole evidence that the pannel, in spite of her most suspicious denials, knew of Warden's condition and looked upon it as likely to bring disgrace on the family and to excite her husband's indignation. She plainly wanted to procure abortion, and probably she was led on step by step to the commission of this crime. She had the means of death in her possession, and the fact that she obtained it openly was immaterial, if her alleged reason for doing so was false. After examining the evidence as to the presence of rats at Denside, the Lord Advocate said he had been informed that the species of which the rat-catcher

alleged he saw traces was extremely rare in Scotland. All the evidence contradicted the pannel's statement that rats were there in droves and were complained of by the servants. He next dealt with the prisoner's declarations, and said that her denial of having had poison and her retraction next day carried conviction of her guilt to his mind. Her conduct and conversation with Dr. Taylor, her misstatements and denial of facts, her whole behaviour throughout, led to the same conclusion. On the question of suicide, he pointed out that it was not the first time this unfortunate girl had found herself in such a condition, so it was necessary to allege cruelty on the part of her mother to account for her determination to take her own life. The jury would judge from the appearance and proved conduct of the mother whether such a state of things had existed between them as would drive the daughter to that fatal extremity. The two Gruars never mentioned the alleged conversation in the field to anyone, even when the girl became seriously ill. If it were argued that the pannel was only guilty of an attempt to procure abortion, the word "arsenic" alone was a sufficient answer; no one could use that without a deadly purpose.

Jeffrey began his speech for the defence at one o'clock in the morning. We may marvel in passing at the endurance of our mighty forefathers; the

case had been in progress since 9 A.M. the day before. The great resources of that famous reviewer and judge must have been taxed to the uttermost to save his client's life, and we may assume that he left nothing unsaid which could be urged in her behalf. If she was guilty, said he, she deserved death as a most foul and detestable murderess. Yet they were asked to believe that she, having neither motive nor provocation, committed a crime altogether incredible from its extreme atrocity. The symptoms of the deceased were, he contended, those of cholera, and there was nothing except the result of the analysis to exclude the belief that she perished under that disease. He suggested that the tests employed were unsatisfactory and that the Crown experts might be mistaken. "He had a great respect for science; but there were uncertainties, blunders; and it was the pride of one age to rear up theories to be trampled down and triumphed over by the next." But assuming arsenic was the cause of death, he submitted that there was no proof of administration on either Tuesday or Thursday, and therefore, as the prosecutor had failed to prove the specific guilt charged, the pannel was entitled to acquittal. Dr. Christison had said that the dose of Tuesday could not have been the cause of death, no human being could lay his hand on anything like poison being given on

Thursday, and it was not enough for the prosecutor to say, "Oh, I have proved a poisoning somewhere about that time, and I am entitled to a verdict." The previous character of the deceased, her sense of the forlorn situation in which she was, acting on a violent and hasty temper, and the repeated expression of a settled purpose to deprive herself of life, were an answer to the alleged improbabilities of her committing suicide. There was no evidence that the pannel had assurance of the girl's condition, and an immense interval lay between a purpose to procure abortion and the destruction of a human being by a process of slow and deliberate torture. He maintained that the circumstances in which the pannel acquired arsenic inferred her innocent intention, and he argued that there was proof of the presence of rats at Denside. Had Margaret Warden believed that her mistress had poisoned her, she would have cried aloud for vengeance on the head of her inhuman destroyer. Her words, "You know who is the occasion of me lying here?" probably had reference to George Smith or to her mother, of whose harsh conduct she had complained. It was natural that the unhappy girl should not wish to go down into the grave with the additional stain upon her memory of having perpetrated her own destruction. They could not believe the mother; it was incredible

that she would have remained in that house all night if she really thought her daughter had met her death at the hands of that woman. In estimating the credit to be given to the pannel's declarations the jury would not deal so lightly as his learned friend had done with the proof of her incapacity from illness, and if they thought she should not have been examined they would throw the declarations aside. In view of the character and conduct of both parties, and bearing in mind the testimony to the kindness and benevolence of the pannel, was suicide or murder the more probable explanation of Margaret Warden's death? In a case so involved in mystery, he would not ask for a triumphant acquittal; they would be warranted in finding the pannel not guilty, but he demanded a verdict of not proven.

The Lord Justice-Clerk commenced his charge at three o'clock in the morning, and did not finish until half-past five. It is said that the jury, having risen when his lordship began, were not told, as was usual, to sit down again, and so remained on their feet during the two and a half hours to which the judicial comments extended. As they had been already engaged upon the trial for eighteen consecutive hours their case was grievous, and one need hardly be astonished at any verdict at which, in such trying circumstances, they might arrive.

His lordship observed that this was a case of circumstantial evidence in which there were only two points of law—(1) The objection to the mode in which the charge was drawn. The prosecutor having charged two acts, he could not prove a greater number; but as to the time, he was not confined to the terms of the indictment to Tuesday and Thursday. (2) The objection to the declarations. These, by the unanimous judgment of the Court, were held to be admissible, but their credibility was left to the jury. He could not concur with what had been said upon this point by the pannel's counsel. It was impossible that a declaration could have been taken with greater caution. The first question for their consideration was the proof of the *corpus delicti*—Did the deceased die of poison, and was that poison arsenic? After reviewing the medical evidence, his lordship thought there could be no doubt of that. The next question was of the pannel's guilt. His lordship, having gone over all the leading facts of the evidence on both sides, observed that they would consider whether the evidence, upon a full, fair, and enlarged view of the whole of it, satisfied their minds that arsenic was administered by the prisoner at the bar. They would not strain it against her, and if it did not carry conviction to their minds, they would give her the benefit of any doubt. But if they could not

reconcile the accounts, and thought there was not sufficient motive for the deceased poisoning herself, it was their duty to act accordingly. They would also consider if it had been sufficiently proved that Margaret Warden was her own murderess. The evidence of what she said was before them, and they would particularly attend to the conversation between her mother and herself on the day of her death. Keeping that in view, he thought the probability of her having committed suicide a very strong proposition to press upon them in the manner in which it had been pressed. If they believed arsenic to be the cause of death, everything turned upon the question—By which of the two was it administered? They would decide. On the conclusion of his lordship's address the Court adjourned till two o'clock that afternoon.

"The trial of Mrs. Smith," says the *Courant*, "from the nature of the case and the repeated delays which took place, excited from the beginning the deepest interest, which increased with the progress of the proceedings. During the whole of Monday and Tuesday till two o'clock, when the verdict was given in, the crowd was excessive. Not only the Court-room, but the Outer House, the Lobbies, and the Parliament Square were filled with crowds of persons anxious to hear the result; and though the weather was intensely cold, yet

they remained on the streets during the whole night, and at two and three o'clock in the morning every door was as closely besieged as at ten o'clock on the preceding morning of Monday."

On Tuesday, 20th February, when the Court met, the jury returned the following verdict: "Unanimously find the libel Not Proven." The Lord Justice-Clerk, in discharging the jury, remarked that it was their verdict, and he had no observations to make. The prisoner was then assoilzied, and dismissed from the bar, and the Court rose. We learn from the *Courant* that, "to avoid any insult or violence from the crowds assembled in the Parliament Square, Cowgate, head of Libberton's Wynd, and other places, whose aspect was rather threatening, Mrs. Smith was conveyed by her friends to the Lock-up House, as a temporary asylum," from which it may be gathered that the verdict was unpopular. On that date Sir Walter Scott records in his *Journal:* "At Court, and waited to see the poisoning woman. She is clearly guilty, but as one or two witnesses said the poor wench hinted an intention to poison herself, the jury gave that bastard verdict, Not Proven. I hate that Caledonian *medium quid.* One who is not proven guilty is innocent in the eye of the law. It was a face to do or die, or perhaps to do to die. Thin features, which had been handsome, a flash-

ing eye, an acute and aquiline nose, lips much marked, as arguing decision and, I think, bad temper—they were thin and habitually compressed, rather turned down at the corners, as one of a rather melancholy disposition. There was an awful crowd; but sitting within the bar, I had the pleasure of seeing much at my ease; the constables knocking the other folks about, which was of course very entertaining."

Lord Cockburn, in his *Circuit Journeys*, writes: "Lockhart mentions Scott as having gone to see my old client, Mrs. Smith, who was guilty, but acquitted, of murder by poison. The case made a great noise. Scott's description of the woman is very correct. She was like a vindictive masculine witch. I remember him sitting within the bar, looking at her. Lockhart should have been told that as we were moving out, Sir Walter's remark upon the acquittal was: 'Well, sirs, all I can say is, that if that woman was my wife, I should take good care to be my own cook!'" This was written by Cockburn in 1838, when he was reading the last volume of the famous *Life*, in which Lockhart had incorporated the passage from the *Journal* quoted above.

Thus it will be seen that the reader who ventures to doubt the soundness of the verdict does so in

good company. If every prisoner's counsel kept a diary, and published it in the cause of truth, the labours of the historian would be agreeably lightened, and Pilate's eternal question might sometimes find an answer.

CONCERNING CHRISTINA GILMOUR

THIRTEEN YEARS BEFORE MADELEINE Smith, "with the air of a belle entering a ballroom or a box at the opera," stepped gracefully into the dock of the High Court of Justiciary, and, having arranged with her little lavender-gloved hand the elegant brown silk gown to the best advantage,

and made ready the silver-topped smelling-bottle which she never used, composed herself to witness the nine days' wonder of her trial, another girl prisoner had occupied her place. Charged with a similar crime committed by the same deadly means, that prisoner was also recalled to life by the dubious verdict peculiar to her country's laws. But there the likeness ends, for the earlier case, though notable in its day and generation, was totally eclipsed by the lurid fame of the greater *cause célèbre*, and long since has ceased to be remembered. Yet the trial of Mrs. Gilmour in 1844, for the murder of her husband in the previous year, deserves the attention of those who pursue the study either of psychological anomalies or of the principles of circumstantial evidence, and for such a brief narrative of the forgotten facts may prove of interest.

Christian or Christina Cochran was the eldest daughter of Mr. Alexander Cochran, the proprietor of certain farms at South and West Grange, in the Ayrshire parish of Dunlop—where the cheeses come from. He and his father before him had dealt largely in the local produce, by which they made a considerable fortune. Christina is said to have been born at South Grange on 25th November, 1818, and was thus twenty-five at the time of her trial, but in her declaration she gives her age as twenty-

three. Mr. Cochran appears to have been an austere man of rigid Presbyterian mould, a type familiar in the home country of Robert Burns. Though her father was a landowner and a man of substance Christina's upbringing was practical and homely. After receiving a good education at a Glasgow boarding-school she had, on leaving it, to take her share in the ordinary work of the farm, and later, in accordance with the thrifty custom of her class, she was sent to learn dressmaking, which she did at Paisley under a professional exponent of the art. Thence she returned home fully equipped with the accomplishments requisite for a young woman of her time and station, and as she was a good-looking and amiable girl with an assured portion, she found plenty of suitors for her hand. The offers she received were from men socially her superiors, any one of which her parents would gladly have seen her accept, but she refused them all, having avowedly set her affections upon a young man, ten years her senior, named John Anderson, the son of a neighbouring farmer. They had known each other from childhood, and although there was no engagement between them, it seems to have been understood that Anderson would marry her so soon as his circumstances permitted. But another Richmond entered the field, in the person of Mr. John Gilmour, a well-to-do farmer in Renfrewshire,

whose father was a neighbour of the Cochrans. He was an educated and agreeable man, much esteemed in the district for his upright, sterling character, and was several years younger than Anderson. His overtures were well received by the girl's parents, who being plain, unambitious folk, considered him an excellent match. John Gilmour was an ardent wooer; his attachment, we are told, was "passionate and irrepressible," and Christina accepted his attentions with apparent equanimity, giving him no reason to think that her heart was already bestowed. He proposed, was refused, and, in Ercles' vein, threatened suicide. The lady appeared impressed, and yielded. Meanwhile, Anderson had continued his visits to South Grange as usual, and on one of these Christina suddenly announced to him her engagement to another. By what motive she was actuated in behaving as she did we can only conjecture. Perhaps she thought that Anderson was, as the phrase goes, rather backward in coming forward, and hoped that the fact of an accepted rival would bring matters to a head. If this be so, she was woefully mistaken; Anderson expressed suitable surprise at the news, but "conjured her to abide by her promise," and resigned all pretension to her hand.

From that moment Christina was a changed girl. Her disposition had been notably bright and

cheerful; she became moody and abstracted. She who hitherto had been afraid of the dark now roamed the fields alone of nights, and had to be sought for and brought home by her wondering sisters. Curiously enough, her appetite, which by all accepted canons ought to have been lost with her heart, increased enormously, and is described as insatiable; her family strove to regulate it in vain. Plainly all was not well with Christina, and the happy day, twice named, was as often postponed. It is a remarkable fact that the girl is said to have been most like her old self during the visits of her fiancé. She continued, however, to correspond with Anderson, and her parents, although aware of the whole circumstances, were anxious to hasten on the marriage. Their action in this matter is variously represented by the two contemporary pamphlets on the case, published respectively at Edinburgh and Glasgow. The former describes Christina as being entirely a free agent, her parents merely indicating that they thought the marriage desirable, but putting no restraint upon her wishes; the latter states that the step was forced on her by her father, not only against her will but in spite of her urgent and repeated appeals to be allowed to remain single. However the fact stands, Mr. Gilmour, who does not seem to have suspected the real cause of his betrothed's unsatisfactory condition,

was naturally impatient of further delay. Christina bowed to her fate. She went with him to Glasgow where they bought the necessary wedding "braws," and for the third time the marriage day was fixed. On 29th November, 1842, the ceremony was performed by the Reverend Mr. Dickie, minister of the parish, who noticed nothing amiss in the bride's demeanour, and the newly wedded pair, accompanied by one of her sisters, left for the bridegroom's farm, Town[1] of Inchinnan, Renfrewshire. The house is near Inchinnan Bridge, where, in 1685, the unfortunate Argyll was captured at the ford by the servants of Sir John Shaw of Greenock.

The unusual attitude adopted by Mrs. Gilmour towards her husband from the outset of their married life must be indicated, as it has an important bearing on the subsequent events. The bride sat up by the fireside the whole of the first night in her new home. The bridegroom, we are told, generously ascribed her conduct to the novelty of her situation, but as day after day passed without any modification of her attitude towards him that explanation became no longer tenable. Christina displayed no enmity to the man she had so inexplicably married; she said that she respected him, but would never live with him as his wife. In this difficult situation her husband seems to have be-

[1] *Town*, i.e., farmstead.—E. P.

haved with the utmost tact and delicacy, trusting that time would bring about a better understanding between them. But John Gilmour's time, little though he knew it, was terribly short; within six weeks of his ill-omened wedding-day he was a dead man.

The evidence taken at the subsequent trial is rendered somewhat confusing by reason that many of the witnesses speak to a variety of disconnected facts applicable to different branches of the case; it will therefore conduce to clearness if we consider the events in the order in which they successively occurred. The *ménage* at Town of Inchinnan was simple and primitive, recalling the homely ways of some west country household as preserved for us by the admirable art of Galt. The laird busied himself in the affairs of his farm, while as there was but one woman servant within-doors, the house required all his wife's attention. Several men were employed about the farm. During the whole period in question one or other of Mrs. Gilmour's sisters resided at Inchinnan, though, curiously, the guest took her meals in the kitchen by herself, the host and hostess having theirs together in the parlour. It is remarkable that neither of these ladies was called as a witness at the trial. The bride from the first made no secret of the unusual footing upon which she and her husband lived. She early in-

formed the maid, Mary Paterson, who was an old family servant of the Gilmours, that she had married the laird unwillingly, because her father wished her to do so, and that she had "intended to take John Anderson."

The first important date in the case is Monday, 26th December, 1842, a month after the marriage. On that day Mary Paterson went to visit a relative in Dunlop parish. Before she left, her mistress told her to purchase twopence worth of arsenic in Paisley, which was on her way, and gave her the money for that purpose. Mrs. Gilmour instructed her not to buy the poison personally, but to go to a certain house and send a "callant" (boy) to get it for her. She said she wanted it to poison rats. We may pause here for a moment to deplore the curious lack of originality shown by our criminals in attempting to give a legitimate excuse for the acquisition of arsenic. In almost every Scottish trial for poisoning, from that of the Lady Fowlis in 1590 to Madeleine Smith's in 1857, these equivocal rodents have figured with such wearisome persistence that the formula seems to be accepted as classic. In England, one must in fairness admit the amateur toxicologist has displayed upon occasion less poverty of fancy.[2] Mary forgot the

[2]Poisoners in America have often shown the same feeble imagination, when arsenic or some deadly substance was desired in order to

address, and on her return through Paisley on the following day, Tuesday, 27th December, she went herself for the arsenic to a chemist's shop kept by one Dr. Vessey. He asked her for whom it was required, and she answered, Mrs. Gilmour of Inchinnan. The chemist, having taken her own name, gave her a packet labelled "Arsenic—Poison," which Mary duly delivered to her mistress, telling her what had happened. Next day, Wednesday, 28th, when Mary was in "the boiling-house" in the afternoon, Mrs. Gilmour produced a packet similar in appearance to that containing the arsenic, which she threw into the boiler fire in Mary's presence, with the remark that "it would be of no use to her, and she was frightened she could not use it right."

When Mary Paterson left for her brief holiday Mr. Gilmour, a hale man of thirty, was in his ordinary health and spirits, but on Thursday, 29th, he suddenly became unwell and suffered from violent sickness. His disorder continued during the week-end, but, as it had been arranged that on Monday, 2nd January, "the happy pair"

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remove an inconvenient lover or husband. When the murderer has been a man, with evil intent toward a lady, he has sometimes invented a dog as his excuse. Witness, Hersey in 1860, and the Rev. Mr. Richeson in 1911. But the Rev. Mr. Hayden of Connecticut was waging arsenical warfare upon rats at the time when Mary Stannard was poisoned.—E. P.

should pay a New Year's visit to the bridegroom's family in Ayrshire, Mr. Gilmour, though still very unwell, left Inchinnan that morning with his wife in a gig for Dunlop. At South Grange he complained of internal pain to his father, who says that John Gilmour's face was swelled, and that he had several attacks of sickness during the visit. On Tuesday, 3rd January, he and his wife drove home, arriving at Inchinnan in the afternoon. That night the laird had a recurrence of his mysterious ailment, the symptoms of which continued with increasing severity until his death a week later. Throughout the illness his wife was his assiduous and sole attendant, preparing his food and drink and administering the medicines which, as we shall see, were afterwards prescribed for him. In the earlier stages of his malady Mr. Gilmour, as one witness says, "was whiles in bed and whiles out of it." John Muir, one of the men on the farm, saw him at the stables on Wednesday, the 4th. His face was then swollen and his eyes were watering. He said he had been sick. Next day he was confined to his room, which he was never to leave again alive.

Friday, 6th January, is a red-letter day in the case. John Gilmour was on his death-bed. Early that morning his wife left the house. She informed Mary Paterson that she was going on an errand to Renfrew, as "she wanted something, to see if it

would do her husband any good," and asked Mary not to tell the other servants that she had gone. Renfrew is some two miles from Inchinnan, Paisley about four. She returned "shortly after breakfast." Between eight and nine o'clock that morning John Muir, "going out from his breakfast," found at the corner of "the boiling-house," which adjoined the dwelling-house, a black silk bag. He had passed the place as he went in for his breakfast, and the bag was not then there. He opened it, and found that it contained a small phial full of liquid and a paper packet tied with thread, marked with the single word "Poison." The smell of the phial suggested scent to him; it was not the smell of turpentine, which he knew. He handed the bag to Mary Paterson, who also examined the packet and the "wee phial." She carried the bag with its contents to her mistress, asking if it was hers, and Mrs. Gilmour took it from her, remarking that "she had got turpentine to rub John with." The packet in appearance was similar to the one which Mary had bought previously in Paisley. That same night, "after the horses had been suppered," Mrs. Gilmour again left home, taking with her Sandy Muir, another of the farm hands. She told him that, as the master refused to see a doctor, she was going to consult her uncle, Robert Robertson, at Paisley. When

they arrived at that gentleman's house Sandy waited for her in the kitchen, and Christina was announced to her uncle. Mr. Robertson was surprised by his niece's visit, as he had not seen her for four years; he scarcely recognised her. He remarked that they were almost neighbours now, and she said that it was against her will that she was at Inchinnan—"she would rather have preferred one Anderson." Whereupon her uncle delivered a little homily on the duties of marriage, winding up with the consoling reflection "that many persons had not got the one they liked best," which, he says, she received "quite pleasantly and reasonably." She then informed him of her husband's illness and alleged aversion from professional treatment. Mr. Robertson at once proposed to send his own medical man, Dr. M'Kechnie, but Christina said she would rather her uncle came down first, "to see what Mr. Gilmour would say." Having arranged to go to Inchinnan next day, he bade his niece good-night.

Meantime, John Muir, the other servant, had been thinking about the strange contents of the bag found by him that morning, with the result that after his mistress left home in the evening he went "ben" to see his master about half-past eight. The sick man was alone and in great pain. Without disclosing the discovery which had prompted the

suggestion, Muir asked if he would like to see a doctor, and Mr. Gilmour replied that he would do so in the morning if he were no better. Muir proposed to fetch one there and then, to which his master agreed, mentioning Dr. M'Laws of Renfrew. Christina, with wifely anxiety, would seem to have unduly magnified her husband's repugnance to the faculty. When Muir was leaving the bedroom, his master, making use of a significant but untranslatable Scots idiom, said, "Jock, this is an unco thing!" which suggests that he was uneasy in his own mind as to the nature of his illness. Accompanied by one of the other farm lads, John then set out for Renfrew and Dr. M'Laws. They were saved their journey by meeting fortuitously at Inchinnan Toll-house the doctor in person, who readily agreed to go with them, though it was then near midnight. It is in every way regrettable that Dr. M'Laws, as unfortunately appears from the evidence to be the fact, was at the time of his visit "under drink taken." He afterwards stated that he found Mr. Gilmour in bed, complaining of pain, fever, and thirst, but was not told about the sickness. In his opinion the complaint was an inflammatory one, so he bled the patient, and ordered him to be rubbed with turpentine. His horse was yet at the door when Mrs. Gilmour returned from Paisley. She went straight

to her husband's room, but we have no account of her interview with the festive physician, whose further services were dispensed with. If, as Christina alleged, the "wee phial" found that morning did, despite its smell, contain turpentine "to rub John with," that she should have procured it before it was prescribed was a happy coincidence.

About eight o'clock next morning, Saturday, 7th January, a respectably dressed young woman entered the shop of Mr. Wylie, chemist in Renfrew, and asked for arsenic—of course for killing rats, but with this realistic touch, "in the field." In reply to the usual questions, the lady stated that her name was Robertson, and that the arsenic was required for one John Ferguson, a local farmer, but as "it was not long since she came to the place," she could not give the name of the farm. Mr. Wylie then ran over to her a list of such farms as he remembered in the neighbourhood, but the customer hesitated to select one. The chemist was not satisfied; he summoned James Smith, the oldest inhabitant, who was conveniently at hand. That veteran named every farm in the district, but knew none associated with the name of Ferguson. The lady then said it was "up by Paisley," which seems to have been deemed sufficiently specific. Twopence worth of arsenic was put up in paper, marked "Poison—Arsenic," and sold to her. Mr.

Wylie entered the transaction in a book kept by him for the purpose, the veteran signing as a witness, and "Miss Robertson" left the shop with her purchase. Mrs. Wylie, who was also present, noticed that she did not go in the direction of Paisley. At the trial Wylie, his wife, and the oldest inhabitant all positively swore to the identity of "Miss Robertson" and Christina Gilmour, then at the bar. Mary Paterson said that her mistress went from home upon a second early morning errand about that time, but could not tell the exact date. Thus, within ten days, three packets of arsenic had found their way into Mrs. Gilmour's possession, and the rats at Inchinnan were still unslain.

Between ten and eleven o'clock that Saturday morning old Mathew Gilmour, who had heard that his son was worse, came from Dunlop to see him. John Gilmour complained of sickness, pain, and persistent thirst; his wife was in constant attendance. He asked his father to stay with him, but Mathew had to go home again in the afternoon. Before he left, Mr. Robertson arrived about four o'clock, and remained an hour with the sufferer, who was continually sick and in great pain. He told Mr. Robertson about Dr. M'Laws' visit the night before, and Mrs. Gilmour said she would send for Dr. M'Kechnie if her husband got worse. Christina, when alone with her uncle, recurred to the subject

of her marriage, saying "it had been against her mind in taking Gilmour."

Next morning, Sunday, 8th January, Mr. Robertson received a message from Inchinnan at nine o'clock, asking him to send a doctor and to come himself. Who sent this message we do not know. At his request Dr. M'Kechnie went down and saw the patient, whom he found very feverish —his pulse was 112—"with a very great thirst." The doctor heard of the sickness. He asked to see the vomited matter and also the *excreta*, but was told by Mrs. Gilmour that none had been preserved. He then gave her particular orders that these were to be kept for his inspection on the following day. He considered the case a bilious one, and prescribed calomel, tartaric acid and soda powders, and a blister. Mr. Robertson arrived before the doctor left, and stayed all night to relieve Mrs. Gilmour in the nursing, and John Muir was dispatched forthwith to Renfrew to get the medicines made up at Wylie's shop. On the Sunday evening, Christina again reverted to the vexed question of her marriage, which, as her uncle thought, "appeared to be brooding on her mind." On Monday, the 9th, Dr. M'Kechnie paid his second visit. He found the patient, who said he had been less frequently sick, much relieved by the application of the blister, and his pulse down to 94.

The doctor ordered the treatment to be continued, and asked Mrs. Gilmour for the matters which she had been told to preserve. She replied that "there was so little she did not think it worth while keeping them." Unfortunately, on neither of these two occasions was the patient sick in Dr. M'Kechnie's presence. The doctor did not see him again alive. It is a remarkable fact that throughout the case no mention is made of purging, one of the leading symptoms of arsenical poisoning. On Tuesday, the 10th, old Mathew Gilmour returned to Inchinnan, and remained till the death of his son, which took place on the following day. He found him much worse, complaining of pain and thirst, and frequently sick. The father assisted the wife in nursing him. One or other of them was always in the room, and regularly administered the effervescing powders prescribed by Dr. M'Kechnie. In the afternoon of Wednesday, the 11th, Dr. M'Kechnie's son, who assisted his father, called, and found the patient "very low"; he considered him in a dangerous state. The young surgeon promptly bled him, and departed. This, probably, was the last straw, for shortly afterwards the end came. There were present in the death-chamber the wife, the father, a cousin named Andrew Gilmour (a boy of fourteen who was staying in the house), and Sandy Muir. Sandy deponed that Mr. Gilmour,

shortly before he died, "expressed a wish to be opened," and that he heard him say, "Oh, that woman! If you have given me anything!" The boy stated that he heard the dying man say "he wished to be opened," and also, "Oh, if you have given me anything, tell me before I die!" He remembered the words distinctly, and had mentioned immediately after the death that he heard them spoken. Old Mathew Gilmour, who was deaf, heard nothing. On Monday, 16th January, the body of John Gilmour was buried in the churchyard of Dunlop, Ayrshire; by whom the certificate of his death was granted does not appear. After the funeral, the widow returned to her old home at South Grange, where she lived with her parents as before her marriage. She wrote a letter, which was not preserved, to her former lover, John Anderson, with whom she had held no correspondence during her brief wedded life.

The mysterious illness and sudden death of John Gilmour were much discussed in the neighbourhood. The servants at Inchinnan told what they knew, and soon the report spread that he had died from the effects of arsenic, administered to him by his young wife. In the month of April, according to the evidence, the authorities first heard the rumours which led them to investigate the circumstances of the death, and Superintendent M'Kay

of the Renfrewshire rural police went to Inchinnan to make inquiries. As the result of these, upon the application of the procurator-fiscal, a warrant was granted by the Sheriff on 21st April for the apprehension of Mrs. Gilmour and exhumation of the body. Meanwhile, Alexander Cochran, Christina's father, aware of the reports that his son-in-law had been poisoned, and hearing that the body would probably be raised, "advised" his daughter to leave home. He admits that she was most unwilling to go, and that she had no idea she was being sent to America. All that the father says about the matter is that he employed his brother Robert (who was not called as a witness) to make the necessary arrangements for her compulsory flight. According to Christina's own account, given later in her declaration, her family did not inform her why she was to go away until she asked if it was because of her husband's death "being blamed on her," when they told her that such was the reason. She pointed out that her disappearance would be construed as an acknowledgment of her guilt, but was assured that "she would be back in a few days." Her father would not even allow her to say good-bye to her mother before she went. She left home on foot, in charge of a man she did not know, and at a certain place was handed over to another stranger, who drove her in a gig to a house,

where she was delivered to a third man, with whom she travelled by rail to Liverpool. This third cavalier is stated to have been one Simpson, a Renfrewshire gardener, alternatively, an Ayrshire shoemaker, who was going to America, and at Robert Cochran's request undertook to see Christina safely to the New World. She was to pass on board ship as his wife, and to baffle possible pursuit they adopted the names of "Mr. and Mrs. John Spiers." On arriving at Liverpool the couple took their passage to New York in the packet *Excel*, and before sailing Christina wrote to John Anderson a letter, dated 28th April, to which we shall afterwards refer. It appears from the account given by Christina in America that "Mr. Spiers" was no Bayard; he sought to take advantage of their nominal relations, and she had to appeal to the captain for protection. In the care of that officer she may be left for the present, while we see what was taking place at home.

On 22nd April the body of John Gilmour was exhumed, and was duly inspected by Drs. Wylie and M'Kinlay of Paisley, who prepared a report of the examination then made by them. The intestines exhibited a blush all over the external surfaces, and were found to be stained throughout with spots and streaks of a bright yellow colour. The internal surface of the stomach was thickly

sprinkled with small yellow particles. As the result of their observations, the doctors reported that in their opinion John Gilmour had died from the effects of an acrid poison, which produced the inflammation of the stomach and bowels above mentioned, and that from the appearances referred to they suspected that acrid poison to have been arsenic. Certain parts of the viscera were therefore removed for future chemical examination.

When the police arrived at South Grange on 24th April, to execute the warrant for Christina's arrest, they found the bird flown. None of her relatives would give any information as to her whereabouts, so after making some inquiries in the neighbourhood Superintendent M'Kay went home for the time empty-handed. Satisfied that she had but recently left the district, he continued his investigation, and finally lit upon the fugitive's trail, with the result that he traced her to Carlisle, and thence to Liverpool. As it was found that she had left the country for America, a new warrant had to be obtained on 18th May. Armed with this, M'Kay started in pursuit on board the Cunard steamer *Acadia*, and arrived at New York three weeks before the *Excel*, which had made a bad passage. In co-operation with the New York authorities M'Kay, so soon as the packet was signalled, went down to Staten Island to intercept her, in order to

prevent anyone from the shore communicating with those on board. The knowledge of what was afoot had created much interest and excitement in America, as this was the first case of extradition under the new Treaty of Washington, concluded between Great Britain and the United States on 9th August, 1842, and the New York papers had handled the subject with the moderation and restraint for which the press of that city is still so justly famed. M'Kay, accompanied by an official of the New York police, on 21st June boarded the *Excel* in a Custom-House boat, and, much to the astonishment of the captain and passengers, took the amiable "Mrs. Spiers" into custody. At first she attempted to deny her identity, but by a fortunate chance M'Kay, who had known John Gilmour, once actually met Christina at Inchinnan, and knew her by sight; so seeing that the game was up she made no further resistance, and was forthwith taken away on the police boat. In the hurry of the moment M'Kay did not then learn of the existence of "Mr. Spiers," who modestly kept out of view. That gentleman proceeded in the *Excel* to New York, where, unobserved by the police, he disembarked and vanished. The flight of the "wanted" person, the pursuit across the Atlantic, and the subsequent dramatic arrest at

sea curiously anticipate the modern instances of Oscar Slater and Dr. Crippen.

The extradition proceedings were duly opened before Mr. Sylvanus Rapalyea, the United States Commissioner. Application for delivery of the fugitive was made under Article X of the recent Treaty, whereby persons charged with murder and certain other crimes, committed within the jurisdiction of either of the respective countries, seeking asylum in the other, should, upon evidence of criminality, be surrendered to the proper authorities. Mr. Warner of the New York bar, who appeared for the prisoner, represented that his client was insane; he therefore moved for and obtained a postponement of the hearing of her case until she could be examined by medical men. This examination having been made, the case again came before the Commissioner on 12th July. Eight New York physicians had minutely studied and tested the prisoner's mental capacity; five of these were examined and cross-examined at vast length, two did not appear when called, and the evidence of a third was disallowed. The united testimony of these gentlemen was to the effect that although the behaviour and conversation of the prisoner was suggestive of imbecility—she sat on the floor, lacerated her hands, and talked non-

sense, *e.g.*, that as she had been sick on the voyage out she would "rather go home in a coach"—they could discover no sign of mental disease, and were of opinion that her insanity was feigned. The necessary evidence of her alleged criminality was then given by Superintendent M'Kay, despite the vigorous protests of her counsel. Mr. Warner, thus defeated in the first round, now moved that the proceedings were incompetent upon a variety of technical grounds, all of which being repelled he appealed unto Cæsar in the person of His Excellency John Tyler, President of the United States of America. The decision was unfavourable, and on 9th August the Secretary of State issued an order for the surrender and delivery of Christina Gilmour to George M'Kay, an officer of the Government of Her Britannic Majesty. Mr. Warner made a last effort; he presented a petition for a writ of *habeas corpus* to the judges of the Second Circuit of the Southern District of New York, setting forth that all the proceedings hitherto had against his client were illegal, as no legislative action had been taken by Congress to make the Treaty of Washington effectual in law, and further, that no sufficient evidence was produced before the Commissioner to sustain the charge of murder. On 12th August the judges refused to allow the writ, and Christina's fate, so far as American law was concerned, was

sealed. She was to fare better in the old country, as we shall presently see. On 16th August Superintendent M'Kay and his fair charge sailed in the packet ship *Liverpool* for the port of that name, the services of "a trustworthy elderly female belonging to Paisley, who was anxious to return to her native country," being retained to attend her on the voyage, which, owing to continuous gales, occupied twenty-six days. How Christina must have sighed for that coach! On reaching Liverpool she was transferred to the steamer *Achilles*, in which she was conveyed to Greenock, and thence by rail to Paisley. There on Wednesday, 14th September, Mrs. Gilmour was judicially examined before the Sheriff, and, having emitted a lengthy declaration, was committed for trial.

In this document she set forth the circumstances of her flight, and admitted that before she left home she had heard that her husband's body was likely to be raised. Her statement regarding the charge made against her was to the following effect: Before the New-Year visit to Dunlop John Gilmour had complained of a severe headache and pain in his breast, "and said he thought it was his heart"; he was not sick until after their return home. Shortly before his death he told her that she had broken his heart, to which she replied that he had already broken hers. One morning during his

illness she walked to Renfrew, and there bought from Wylie some arsenic, in the name of Robertson. It was in a packet marked "Arsenic—Poison," which she took home in a black silk bag. She "rather thought" she dropped the bag before entering the house, and that it was brought to her by one of the servants. She afterwards kept the poison in her pocket till the string came off the paper and some of the contents were spilt. This she only discovered when she returned to her parents' home after the death. The packet was then taken possession of by her mother, who questioned her about the matter, and she told that lady she had got it "because they were all tired of her and would not let her have peace." The truth, as she now declared, was that, being made unhappy both before and after her marriage, she bought the arsenic "thinking that she would put an end to herself with it." Before making the above purchase she had procured another packet of arsenic, which Mary Paterson bought for her in Paisley. This supply "was intended for rats," but after hearing from Mary "what the druggist had said about the danger of it" she burnt it "before her face" in the furnace fire of the boiling-house, upon the same morning on which Mary brought it to her. The packet was never opened. She administered no arsenic to her husband at any time, either

before or during his illness. She frequently proposed to send for a doctor, but her husband as often refused to see one. She then described her interview with her uncle Robertson, Dr. M'Laws' visit, and the calling in of Dr. M'Kechnie, all as before related. If arsenic was found in her husband's body she could not account for it: "He got none from me, and I am not aware that he got any from anybody else." It is noteworthy that she made no suggestion of her husband having taken his own life.

For four months Mrs. Gilmour remained in Paisley prison until she was removed to Edinburgh for her trial, which began before the High Court of Justiciary on Friday, 12th January, 1844, the day after the anniversary of her husband's death. The judges were the Lord Justice-Clerk (Hope) and Lords Moncreiff and Wood; the counsel for the Crown, the Lord Advocate (Duncan M'Neill, afterwards Lord Colonsay), assisted by Messrs. Charles Neaves and David Milne, Advocate-Deputes; and the counsel for the pannel, Messrs. Thomas Maitland (later Lord Dundrennan) and Alexander M'Neill. A contemporary account remarks, "From the circumstances of this being the first case that has occurred in this country under the Ashburton Treaty, and from the interest which it had already excited in the public mind by the proceedings in the American Courts, inde-

pendently altogether of the importance of the charge itself, the greatest anxiety was manifested as to the issue. At a very early hour the doors of the Court were beset by a dense crowd of persons of both sexes desirous of admittance, and long before the proceedings commenced, the Court was crowded in every part." Christina, becomingly dressed in widow's weeds, and looking younger than her years, was placed at the bar; the indictment was read, and the prisoner, "in a low but firm voice," pleaded not guilty to the charge. This, briefly, was that on repeated occasions between 26th December, 1842, and 12th January, 1843, at Town of Inchinnan, and on 2nd and 3rd January, 1843, at South Grange, she did wickedly, maliciously, and feloniously administer to John Gilmour in some articles of food or drink certain quantities of arsenic, in consequence of which he became ill and died on 11th January, 1843, and was thus murdered by her; and that she, being conscious of her guilt in the premises, did abscond and flee from justice. The Lord Advocate moved that the medical witnesses be allowed to remain in Court to hear the evidence, which practice, he said, was not unusual; but the Lord Justice-Clerk considered such a course "inconvenient," and the motion was refused. A jury was then empanelled, and the Lord Advocate adduced his proof.

The foregoing narrative of the case having been derived from the evidence led for the Crown, we have only to notice such of it as has not been already mentioned. The shopman who had seen the late Dr. Vessey sell the arsenic to Mary Paterson corroborated her account of that purchase, and Wylie, the chemist, produced his books, containing the entry of a similar sale on 7th January to "Miss Robertson," with whom, as has been said, Christina, apart from her own admission, was clearly identified. The contention of the defence was that John Gilmour either poisoned himself accidentally, or committed suicide owing to the unhappy issue of his matrimonial venture, and certain of the witnesses were cross-examined to that effect. Mary Paterson said she had seen her master use arsenic for killing rats about the stable. He kept it in a "kist" (chest) in the kitchen at that time, and the "kist" was afterwards removed to his bedroom before the marriage. Sandy Muir stated that he had helped his master to kill rats with arsenic in the offices. He only knew of him getting poison once for that purpose, from Mr. Paton, a neighbour. It was not used again after the marriage. This is the whole evidence relating to John Gilmour's possession and use of arsenic. Several witnesses were cross-examined with regard to the prisoner's demeanour during the illness. Mr. Robertson, her

uncle, said that when she spoke to him of her marriage she did not do so bitterly, but seemed to be grieved. Her tone was one of depression and regret. He thought her kind and attentive to her husband —"she held his head when he was vomiting." There was no excitement in her manner, and he saw nothing to indicate any alienation between them. John Gilmour made no complaint to him of Mrs. Gilmour's behaviour when he (witness) was at Inchinnan. Dr. M'Kechnie stated that on the occasion of his two visits Mrs. Gilmour behaved in all respects most properly. She was very cool and collected, and showed no sign of excitement.

The interest of the audience must have quickened when the Lord Advocate called Christina's old love, John Anderson. He said he had known the prisoner before her marriage. He received from her in January, 1843, after her husband's death, a letter which he had not preserved. After she left home, she wrote to him again from Liverpool on 28th April. Her brother asked him for that letter, and kept it. The letter having been destroyed, the Lord Advocate proposed to ask the witness—"Was there anything in that letter on the subject of her husband's death?" The witness was removed while the point was discussed whether or not the question was admissible. Mr. Maitland, however, withdrew his objection, in respect of which the Court

allowed it to be put. "She said," replied Anderson, "she would confess she had bought arsenic to take herself, but she did not admit she had administered it to John Gilmour." She also complained of having been sent away, as she would rather have "stopped till all was settled." In cross-examination, Anderson said he had known the prisoner from infancy; "she was of a very gentle, mild, fine disposition." Thomas Cochran, the prisoner's brother, stated that he got the letter from Anderson and gave it to his father. Before doing so he read it; there was nothing in it about arsenic. Alexander Cochran, her father, upon this point said that after reading the letter he destroyed it. He recollected no mention of arsenic.

There only remain the medical witnesses, who need not detain us, as their evidence was not disputed by the defence. Dr. M'Kechnie stated that, having been present at the post-mortem examination and seen the results of the analysis of certain portions of the body, he was satisfied that the deceased died from arsenic. The symptoms observed by him during life were consistent with that opinion. While other doses might have been administered before he saw the patient, he believed that the fatal dose was not given till shortly before death. Dr. Wylie, who, along with Dr. M'Kinlay, made the post-mortem examination, proved their joint re-

port. The suspicion therein expressed regarding the cause of death became a conviction after they had completed their analytical test, the result of which plainly indicated the presence of arsenic in the contents and substance of the stomach and bowels. Dr M'Kinlay corroborated. An independent analysis of other portions of the internal organs had been made by Professor Christison. That eminent authority, having tested the various articles submitted to him by the processes of Reinsch and Marsh, detected arsenic unequivocally in the contents of the stomach, in the stomach itself, and in the liver. Dr. Christison stated in the witness-box that this was the second instance in this country in which arsenic had been found in the liver. The symptoms of the deceased and the post-mortem appearances, as described, were, in his opinion, consistent with death from arsenic. One single dose might produce such protracted illness, but not so probably as repeated doses.

The Crown case closed with the reading of the prisoner's declaration, and her counsel intimated that they did not propose to lead any evidence for the defence. The Court then adjourned till the following day.

On Saturday, 13th January, 1844, on the resumption of the diet, the Lord Advocate addressed the jury for the prosecution. The first question, he said,

which they had to determine was, Did John Gilmour's death result from the administration of arsenic? He submitted that upon this point the medical evidence was conclusive. The symptoms of vomiting, thirst, and internal pain were consistent with that view, the appearances observed at the post-mortem examination indicated it, and arsenic was found in the stomach and its contents and in the liver by three medical men, one of whom was known to all the world as a most skilful and accurate analytical chemist. If ever there was a case where arsenic was found in the body of a deceased person they had it there. In the opinion of those experts, death had been caused rather by repeated doses than by one administration. The illness began on 29th December, 1842, and ended fatally on 11th January, 1843, and the continued symptoms indicated such repetition. The second question was, How was this arsenic administered? In all cases of criminal poisoning the administration was secret, and evidence of it must be sought in the circumstances of the case. There was no ground even for suspecting that John Gilmour had committed suicide, which was, moreover, entirely out of the question in view of the prolonged character of his illness. He would not voluntarily have taken poison in small doses, perseveringly repeated so as to cause a lingering and painful

death. For the same reason there was as little ground for the theory of accidental administration. The poison with which he was said to have once killed rats on the farm was not proved to have been in his possession since his marriage or at the time of his illness. No jury could expect direct evidence of administration in any case of poisoning, particularly where, as in that case, the accused had charge of everything, prepared the food, and was constantly about the person of her victim. As the proof must necessarily be circumstantial, let them examine the circumstances on which reliance could be placed as establishing the guilt or innocence of the accused. Had she possession of poison of the kind which was used, at the time when it must have been administered? It was proved that she had obtained no fewer than three several packets of arsenic during that period—(1) the packet marked "Arsenic—Poison," procured for her by Mary Paterson in Paisley on Tuesday, 27th December, 1842; (2) the packet marked "Poison," found in her bag by Muir and Paterson on Friday, 6th January; and (3) the packet marked "Poison—Arsenic," bought by the pannel herself in Renfrew on Saturday, 7th January, 1843. All these acquisitions were made in a secret and mysterious manner. The first was obtained upon a false pretence, and by indirect and most suspicious means; how she

got the second did not appear, further than that she did not do so openly and avowedly; the third was bought by her under a false name and upon statements equally false. Was her account of the disposal of the poison thus acquired satisfactory? She said that she threw the first packet into the fire before the girl Paterson on the morning she obtained it, but Paterson stated that it was not until the following afternoon that her mistress burnt a packet which was "like" the one she had bought for her. Had that arsenic been intended for poisoning rats, there was no need to destroy it merely because the chemist knew the purchaser's name and address. But if it were not so intended, then, in view of the chemist's information, she had either to destroy or pretend to destroy it in the presence of the person who procured it. As to the second supply traced to her possession, there was no account whatever of what became of it. Then as to the third packet, which she now endeavoured to confound with the second, discovered the day before, but which was plainly a different parcel obtained the next day, she said that she carried it about in her pocket until after her husband's death, when it was found by her mother, who destroyed it, and that she told her mother that the purpose for which she acquired it was suicide. No attempt had been made to support that statement, and the mother

was not called as a witness. That this third packet obtained by her from Wylie on the Saturday was not the packet found in her bag by Muir on the Friday, was clearly proved by the evidence of Muir and Paterson, who were positive that the incident occurred on the morning of the day (Friday) when Dr. M'Laws was summoned. Muir stated, in reply to the Court, that it was the finding of this bag which led him to urge his master to see the doctor that night. He was also certain that only the single word "Poison" was written upon the packet he found, whereas the third packet was proved to have borne the two words, "Poison—Arsenic." Further, along with the packet in the bag was found a small phial, also acquired by herself, containing some fluid alleged by her to be turpentine, which, as Muir proved, it was not. There was no evidence that she got that phial at Dr. Wylie's or anywhere else on the Saturday. Paterson stated that her mistress left home early in the Friday morning "to get something for her husband," telling her not to mention the matter to the other servants, and there was no trace of anything brought home by her for her husband except the contents of that bag. Friday, therefore, was the day on which she had both a parcel and a phial, Saturday that on which she had a parcel but no phial. How, then, did the prisoner account for the acquisition of

arsenic at all? She said at first that it was for killing rats; in her declaration she alleged self-destruction as the reason, which rested entirely on her unsupported statement. Her husband was dying; was that a likely time for her to be contemplating suicide? And was it credible that for such a purpose she required those repeated quantities of arsenic, successively procured at short intervals, more especially as she made no attempt whatever to use it? The next element in the case was the question of the opportunity of secret administration, upon which the Lord Advocate remarked he need say little; the prisoner had every opportunity that could possibly exist. She was the sole attendant of the deceased, and all that he took was taken from her hand without the observation of others. Then they came to the question of motive. Of course, no motive could be adequate to so terrible a crime, but there they had such a motive as in other cases had been found to lead to similar lamentable results. There was the evidence of the prisoner herself and of various witnesses that she was dissatisfied and grieved with her condition as John Gilmour's wife, on account of her previous attachment to another person. She was constantly complaining to servants and others that she had been compelled to marry her husband against her will. Her distress was so extreme that, according to

her own account, she actually meditated suicide, and acquired poison for the purpose of putting an end to the unbearable union. "Gentlemen," said the learned advocate, "there are two ways in which arsenic might be used by her to attain that end; she might have poisoned herself, or she might have poisoned her husband. Her husband is poisoned—she is not. By a most extraordinary chance, the cup which she mixed for herself has not been quaffed by her but by some unknown and mysterious hand was conveyed to the lips of her husband. Can you, then, doubt the purpose for which that poison was obtained or the purpose to which it was applied?" No sooner was the union dissolved by his death than she was found in correspondence with the person who had never been absent from her mind during the whole progress of those disastrous events. In short, all the circumstances of that melancholy case concurred in establishing the prisoner's guilt. Besides the general view, there were certain minor circumstances, all pointing also to the same conclusion, which called for attention. The first supply of arsenic was obtained on Tuesday, 27th December; the husband's illness began on Thursday the 29th, and, though he continued seriously ill, no doctor was sent for till Friday of the following week. She went, however, on that Friday to her uncle, Mr. Robertson, and stated to

him the condition of her husband. That interview was very remarkable, and whether she expected her husband to be alive or not, she put off the visit of a doctor till after the Saturday. When Dr. M'Kechnie came the first time, he gave the prisoner special instructions to preserve certain matters for his inspection. Those instructions were not obeyed, and the excuse she gave was that there was so little that she had thrown it away. Then, so soon as suspicions arose and it was known that the body was to be exhumed, she fled the country secretly and under a false name. Though she now alleged that she went unwillingly, still she did go, which was a strong circumstance against her innocence. With regard to the letter which she wrote to Anderson from Liverpool, that was destroyed by her father, under whose advice she was acting. Anderson swore that it contained a reference to the purchase of arsenic, and "that she would admit" it was for her herself, but not for Gilmour; yet neither the father nor the brother, who read it, had any recollection of such a passage in the letter. They did remember that it expressed her unwillingness to go away, and still, in these circumstances, the father said he destroyed it. In conclusion, the Lord Advocate submitted that the jury had all the elements required in a case of murder by poisoning, and it was his painful but

imperative duty to ask them to find that case established.

Mr. Maitland then addressed the jury for the defence. He contended that unless the case on the part of the Crown had made guilt certain and innocence impossible, the jury could not convict his client. The question was, not whether the prisoner was covered by a very dark shadow of suspicion, not whether they had strong doubts of her innocence, but whether there was legal evidence which entitled them to hold her guilty. With regard to the medical evidence, he admitted that arsenic was found in the body, and that John Gilmour died from the effects of that poison; but he argued that the Crown had not established that death had been caused by repeated doses. Dr. Christison himself admitted that a single dose might have produced the illness. The evidence adduced in support of the charge was purely circumstantial, yet the crime was of no ordinary kind, and was one which could with difficulty even be imagined. After referring to the innocent and blameless character of the prisoner before her marriage, and narrating the history of her home life prior to that event, counsel submitted that apart from the improbability of a young girl so brought up committing such a revolting crime, there was no motive sufficiently strong to induce her to do so. Before they could convict her

they must be satisfied that she hated her husband, of which there was not the slightest proof. She was shown to be in some degree dissatisfied with her marriage, and had spoken to her uncle on the subject, but she took kindly his advice to make the best of it, and exhibited no ill-feeling whatever towards her husband. The general conduct and deportment of the prisoner during the deceased's illness was of great importance. If they were to believe the Crown case, this young and gentle girl was for thirteen days constantly and continuously employed in perpetrating by slow degrees the murder of her own husband. In such circumstances human nature must have exhibited some remarkable symptoms, either of excitement or confusion. But in the whole history of this domestic tragedy her conduct betrayed no consciousness of guilt. Dr. M'Kechnie declared that so far as he saw she behaved quite collectedly and properly, and Mr. Robertson stated that she complained of no unkindness on the part of her husband, that she seemed grieved, and that she wept when she spoke of her marriage. "Nothing could exceed her attention and kindness," said counsel; "she did all that an affectionate wife could do for a husband on his death-bed." She sought medical aid when he took ill, she allowed the servants and others free access to his sickroom, and, in short, everything she

did was inconsistent with the conduct of a guilty woman. Upon the important question of her possession of poison, counsel maintained that there were only two parcels of arsenic traced to her, and denied it was proved that the prisoner had arsenic on Friday, 6th January. The witnesses who spoke to finding it in her bag on that day had, he argued, forgotten the exact date, and made the mistake of ascribing to Friday the 6th the occurrences which took place on Saturday the 7th. If that was so, and there were in fact but two packets of arsenic, they had both of these accounted for; the first was burnt, as declared by Paterson, while the second remained in the prisoner's pocket until it was found by her mother some weeks after her husband's death. Except the possession of these two packets of arsenic, the prosecutor had failed to prove a single fact warranting a suspicion against the pannel's innocence. Her own explanation sufficiently accounted for their possession. A broken heart might lead to suicide but not to murder, and it was less extravagant to suppose that the deceased had destroyed himself than that in such circumstances he was murdered by his wife. If the union was unfortunate he had as good reason as she to wish it terminated. But apart from the possibility of suicide, was it not probable that he was poisoned accidentally, either by his own or by some

unknown hand? He was proved to have had arsenic in his possession, and other white powders were administered to him medicinally. Who, then, could say that in this case of circumstantial evidence the proof was so strong as to exclude a reasonable possibility of accident? In conclusion, the learned counsel made a lengthy quotation from the speech of Francis Jeffrey in defence of Mary Elder or Smith, "The Wife o' Denside," on her remarkable trial for poisoning in 1827, after which he said: "You may not be satisfied that this unhappy lady is guiltless of her husband's blood—nay, you may suspect or even be inclined to believe that she is guilty. But that is not the question at issue. You are sworn to say upon your oaths whether guilt has been brought home to her by legal and conclusive evidence, and, applying this test, I feel confident you can arrive at no other verdict than that of Not Proven."

The Lord Justice-Clerk then proceeded to charge the jury. His lordship's observations on the case occupied four and a half hours, but neither the official report nor the contemporary accounts detail his review of the evidence. After commenting on the peculiarly atrocious character of the crime charged and the youth and previous respectability of the prisoner, his lordship said if the jury were satisfied that the death of John Gilmour was caused

by poison, that poison must have been administered either accidentally or voluntarily. The deceased was proved to have been using arsenic, some of which might still have been in the chest removed into his room after the marriage. If it was administered accidentally no one else was affected by it. But even if they were not satisfied of the probability of accident, much remained to be proved before they could fasten on the pannel the horrid charge of intentional administration. They must consider also the possibility that he took it voluntarily. Those two views must be dismissed before they could convict her. His lordship cautioned them against accepting it as proved that she was forced into the marriage against her will. [Apparently, the jury were to disbelieve her own repeated statements to that effect.] He was glad for her sake that this material fact was awanting, which otherwise might have weighed against her, as supplying a motive for the crime. There was no proof that John Gilmour knew of the attachment entertained by his wife for another, and no one in the house observed any unkindness between them. But even if he did know, was he a man of such nice sensibility that the knowledge would drive him to suicide? He made no complaint against her to that respectable person, Mr. Robertson. Would anyone committing suicide choose such a slow and lingering death?

But it was not enough to find the prisoner in possession of arsenic and with the opportunity to use it; they must consider the circumstances in which it was obtained, the purpose for which it was procured, and the manner in which it was disposed of. The prisoner was not suspected during her husband's life, and she so conducted herself as to avoid all suspicion. [What of John Muir and the action taken by him upon finding poison in her bag?] After commenting on the medical evidence and the purchases of arsenic by the pannel, his lordship observed, "You see, therefore, that with all the improbabilities which the charge rears up, there are strong and weighty facts proved; and it will be for you to say what result you can arrive at, taking the whole evidence into view. It is a sad and fearful alternative that is presented to you by the prisoner's own statement in her declaration, that she bought the poison for the purpose of dissolving her marriage by committing suicide, especially considering the mysterious result that her husband dies of the same kind of poison, and that she lives. Still that statement *may* be true, and the pannel be innocent, and you, who are the only judges of the facts in this case, may say that without any proved act of administration on her part, your minds revolt from the notion that she committed the crime charged against her." Finally, if they enter-

tained a serious doubt of her guilt, and considered her conduct during her husband's illness inconsistent with the charge, if, in short, they thought there were mysteries unexplained, which ought to have been explained in order to clear up the truth, his lordship need not tell them that they should give the full benefit of that doubt or obscurity to the individual charged with such a dreadful crime.

It is unfortunate that we have no report of how the learned judge dealt with the "strong and weighty facts proved." The jury then retired, and after an absence of an hour returned unanimously a verdict of Not Proven, and the prisoner was dismissed from the bar. The verdict, we are told, was received in Court "with loud, but not very general applause."

In two other celebrated trials at which his lordship afterwards presided, namely those of Dr. Smith in 1854 and Madeleine Smith in 1857, similar verdicts were returned. Lord Justice-Clerk Hope is said to have enjoyed no great popularity with members of the bar by reason of the intolerance of the judicial temper, but even the sorest of juniors could not have called his lordship a hanging judge. Apropos of the Justice-Clerk's alleged susceptibility to feminine charms, the irreverent tale is told that Madeleine, who had a pretty foot and a well-turned ankle, did, by counsel's advice, make effective dis-

play of those assets for behoof of the bench. In the prosecution of attractive young ladies the Crown is unduly handicapped. The gentle Christina, in common with her more brilliant rival of the 'fifties, doubtless owed not a little to her beauty, her circumstances, and her youth.[3]

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[3]There is further news of Christina in Mr. Roughead's "Locusta in Scotland" (in his book, *Glengarry's Way*). He writes that "Christina returned to her native parish, where, though she did not after all get Anderson, she lived to a ripe and venerable age. A certain clergyman told me once that as a boy he often saw her in church—a charming old lady, serene and beautiful, famed throughout the district for her singular piety."—E. P.

THE ST. FERGUS AFFAIR

IN THE YEAR 1853 THERE OCCURRED IN Scotland a case which in its salient features curiously foreshadows by forty years the great Ardlamont mystery of 1893.[1] Each was one of purely

[1]The Ardlamont mystery is discussed in many books, including Lewis and Bombaugh's *Stratagems and Conspiracies to Defraud Life Insurance Companies* (1896 edition). The fullest account is *The Trial of A. J. Monson* edited by John W. More. Notable British Trials.—E. P.

circumstantial evidence, resulting in the failure of either side to obtain a decisive verdict. The manner of death, the alleged motive, the means, the opportunity, and the inferences of guilt sought to be drawn from the accused's conduct, together with the character of the defence, present many points in common. Both arose from the death of a young man, unquestionably caused by a shot-wound in the head, the prosecution alleging that he was killed by the hand of a trusted friend, the defence contending that he died by his own act. In each case the accused had effected certain insurances upon the life of the deceased shortly before his death, while the position of the body when first found was equally important in determining the question at issue. Both prisoners were defended by the leading counsel of their day; at each trial the judge plainly indicated to the jury that in his opinion the Crown had failed to prove its case; and, finally, the respective juries delivered that ambiguous and indefensible verdict, peculiar to Scottish practice—"Not Proven."

The scene of the tragedy was the village of St. Fergus, situated in a remote corner of Aberdeenshire, five miles northwest of Peterhead, and the protagonists were William Smith, the local doctor, and a young farmer named William M'Donald. The latter lived with his widowed mother, his

brother, and his sister at their farm of Burnside, about two miles from Kirktown of St. Fergus. Dr. Smith, a married man, resided in the village and owned certain fields in its neighbourhood. Despite the differences in their social position, the two had been for long upon terms of intimacy, and M'Donald, who held the highest opinion of the doctor's ability, appears to have been completely under his influence. Dr. Smith had attended the family professionally for about eight years. M'Donald, for one of his class, was in comfortable circumstances. He farmed his mother's land, and was engaged to a girl named Mary Slessor, who lived at Hill of Mintlaw. They were to marry so soon as he could get a suitable farm, for which he was on the outlook, and they were willing to wait—"waiting cheerfully," as she herself declared. He was of steady and sober habits, kindly, cheerful, and industrious, a regular reader of his Bible. He had no cares or worries whatever, his health was sound, and he was on the best of terms with his family and neighbours.

In these circumstances, on Saturday, 19th, November, 1853, having been at work all day upon the farm, William M'Donald left home in the "gloamin'," between four and five o'clock, for St. Fergus. He had three trysts before him, two of which he did not live to keep. He was to see his

betrothed at Mintlaw market in a few days' time, and on the following Tuesday he and his brother Charles, who had left home that morning to go to service, were to meet at Peterhead. The third tryst was with Dr. Smith on the evening in question, at his stable door in the village, at six o'clock.

Kirktown of St. Fergus consisted of a short street running east and west, with small houses on either side. Behind those on the north ran a parallel road called the Back-dyke-road, from the west end of which a footpath went out over the fields in the direction of Burnside. At the east end of the street were the church and manse, near which, at the junction of a road leading from the main street across the back road to Netherhill on the north, stood the house and offices of Dr. Smith. On the south side of the street, at the opposite corner, between the doctor's house and the church, was the shop of James Smith, the village cartwright. On this Saturday night the shop was lighted, and the windows were unshuttered. About seven o'clock William M'Donald came in and gave the wright an order for some "hames" (harness) to be made, also for a grub-harrow for turnip land, and said he would be needing some palings for the farm. He was in his usual health and spirits, and was quite sober. He remained in the shop talking to some friends for about half an hour, and remarked that he was

then on his way home. "It's getting late," said he; "I have need to be away"; and he left shortly before half-past seven. Thereafter, but for the disputable testimony of one witness, he was seen no more alive.

All night long the family at Burnside anxiously awaited his return, and next morning, Sunday, the 20th, his young brother Robert went out to look for him. He took the by-way through the fields to St. Fergus. Near the village the path crossed a six-acre field belonging to Dr. Smith. It was bounded on the west by a ditch, having a bank on the east and a hedge on the west side, through a "slap" (opening) in which the pathway lay. On arriving at this point, the lad was horrified to find the dead body of his brother lying in about an inch of water at the bottom of the ditch. There was a bullet-wound in the right cheek, and the face was blackened with gunpowder. The boy lifted the head clear of the water on to the bank, and, looking about, saw a pistol on the east side of the ditch, four feet from where the head had lain. He then ran to the village for the doctor. Dr. Smith was out, so the boy left a message for him and returned at once to the spot. While he was standing there, "greetin'," beside his dead brother, he saw the doctor and James Pirie, the farrier, approaching from the main road. Dr. Smith came first. On seeing the

body he held up his hands and exclaimed, "God preserve us!" He stood looking down at it, but made no further examination, and, picking up the pistol, remarked, "That's the thing that's done it." He expressed the opinion that the deceased "was partly shot and partly drowned," and that the wound had been caused by a wad only, not by a bullet. The body was then carried to the nearest house, that of James Fordyce, at the corner of the field, on the main road, whence it was taken in a cart to Burnside. M'Donald, when he met his death, was wearing a kind of jacket known as a "polka," the pockets of which, as was afterwards proved, were too small to contain the pistol. At Fordyce's house his pockets were searched for powder and shot, without result; nothing but his watch and snuff-box was found. He never carried money.

Dr. Smith proceeded to Burnside to break the news to the bereaved mother. On the way he met Mr. Moir, the Free Church minister, who, being informed by Smith that M'Donald "had shot himself last night," accompanied him on his sad errand. The doctor told Mrs. M'Donald that her son "had done it himself," and that he was "suffocated or drowned." The mother refused to believe that he had shot himself, either accidentally or by design, as to her knowledge her son never had a pistol. She asked the doctor if he had seen William,

according to their tryst, on the previous evening, but he denied that he had done so, or that there was any arrangement between them to meet that night.

Dr. Smith certified the death as follows:

St. Fergus, 20*th November*, 1853.

I do hereby certify, on soul and conscience, that I was called upon this morning about half-past 9 o'clock, by Robert M'Donald, to see his brother William, who was found in a field near St. Fergus, and who had received a shot from a pistol in the right cheek, taking an upward and backward direction. There was a small quantity of blood coming from the ear and nostrils, the face completely covered with powder, so that the pistol must have been close to him, and from the direction it takes, I infer it is not likely to have been done by any other than deceased.

W. Smith, M.R.C.S.L.

The doctor took entire charge of the funeral arrangements, first suggesting Tuesday, which was afterwards changed to Wednesday. He remarked to the mother, "If Boyd heard what had happened, he would be out"—*i.e.*, Mr. Boyd, the procurator-fiscal, would come from Peterhead to make inquiries into the circumstances of the death. The fiscal did in fact arrive in the forenoon of Monday, the 21st, and commenced his investigation, and at

his request two medical men examined the *locus*, made a post-mortem examination of the body, and prepared a report. As the result of these proceedings Dr. Smith was arrested next day for the murder of William M'Donald, and was taken to Peterhead. There he emitted, in presence of the Sheriff, three several declarations, dated respectively 23rd and 24th November and 1st December, 1853, and was committed to prison to await his trial.

The accused was originally indicted for 13th March, 1854, upon which date the trial began before the High Court of Justiciary at Edinburgh; but on the second day of the proceedings a juryman, who had been overcome by mental excitement, was certified by Dr. Douglas Maclagan as unfit to continue his duties. The jury was therefore discharged, and the diet continued, the accused being taken back to prison. He was then cited upon criminal letters for his second trial, the proceedings in which occupied the 12th, 13th, and 14th of April, 1854. The judges present were the Lord Justice-Clerk (Hope), who three years later presided at the trial of Madeleine Smith, and Lords Cowan and Handyside. On this occasion the Lord Advocate (Moncreiff), who had personally represented the Crown at the first trial, did not attend, and the prosecution was conducted by the Solicitor-General (Crawfurd), afterwards Lord Ardmillan, with

Messrs. Thomas Cleghorn and Andrew (later Lord) Rutherfurd Clark, Advocates-Depute. The Dean of Faculty (Inglis), afterwards the great Lord President, and Mr. George Young, later the eminent and witty judge, appeared for the defence. The same distinguished counsel also successfully defended Madeleine Smith in 1857.

It was, of course, essential to the charge against the prisoner that there should be proof of what, in Scots law, is termed the *corpus delicti*, that this was a case of murder and not of accident or of suicide. The ditch was eighteen inches deep, three feet broad at the top, and from one and a half to two feet at the bottom. There was longish grass and decayed matter at the bottom of the ditch, and also about an inch of stagnant water. The hedge on the west side was five feet above the bottom of the ditch. The surrounding ground was hard and dry, and presented no appearance of any struggle having taken place. When first discovered by the boy, Robert M'Donald, the body was lying below the hedge, extended to its full length in the water at the bottom of the ditch. It lay with the head to the south, and slightly on its left side by reason of the narrowness of the ditch. The left arm was bent underneath the body, the right was partly across it. The face was turned towards the hedge, with the wound uppermost. The body was

fully clothed except for the hat, which lay in the ditch. Dr. Comrie, Peterhead, and Dr. Gordon, a retired naval surgeon from the neighbouring hamlet of New St. Fergus, who conducted the post-mortem examination and prepared a joint report, on visiting the spot on the Tuesday after the death saw the impression of the body quite distinctly in the bottom of the ditch. It corresponded with the description given by Robert M'Donald. Outside the ditch, on the west bank, to the left of the body, they observed a mark of blood.

The medical report stated that the doctors found on the right cheek of the deceased a circular, blackened, ragged wound with inverted edges, as if produced by a pistol ball, situated below the promontory of the cheek, midway between the tip of the nose and the ear. The skin around it, the eyelids, and the side of the nose were scorched and blackened by gunpowder. On tracing the course of the wound, the direction of which was obliquely upwards and backwards towards the left side, they found a pistol bullet lodged in one of the convolutions in the middle lobe of the left hemisphere of the brain. They were of opinion that the death was caused by the injuries discovered in the brain, and that the same had been inflicted by a pistol-shot discharged at a very short distance from the cheek.

Dr. Comrie in his evidence stated that the deceased was not suffocated or drowned. Death must have been instantaneous, and the man could not have moved. The pistol must have been fired only a few inches from the head—three to twelve. If shot by another, that other must have been at his side. The position in which the body lay was a very remarkable one. If he fell dead and no one touched the body, it could not take the position of the impression. The witness could not account for it, whether the man shot himself or was shot by another, if he were shot outside the ditch. If he shot himself he must have been sitting in the ditch, if he did not his body must have been placed in that position by another; he could not have moved into it himself. All the probabilities were against his assuming that position if he were shot outside the ditch. If he fell outside the ditch it would be a matter of a few seconds for anyone to put him into it in that position. It was, said witness, inconceivable that the wound could be caused by accident. He was unable to form an opinion whether the shot was fired by the deceased or by another; he had no materials satisfactory to his mind upon which to arrive at a conclusion.

Dr. Gordon concurred with Dr. Comrie as to the medical report. He thought the pistol must have been close to the face—twelve to thirteen inches.

He had made experiments upon which he based that opinion. In a case of suicide he would expect the distance to be less, and he considered it remarkable that the pistol should have been pointed a little above the gums instead of at the ear or temple. If the deceased shot himself he must have lain down in the ditch to do so; if shot by another his body must have been afterwards placed in position. He could not so fall if shot standing. If he shot himself in the ditch witness could not account for the blood on the bank beyond. From the appearances witness could form no opinion as to whether deceased was shot by himself or by another, but from his personal knowledge of M'Donald, with whom in life he was well acquainted, he could not believe that it was a case of suicide.

Such being the only medical testimony bearing upon the question of the death, we shall now notice the evidence as to the motive by which, according to the theory of the Crown, Dr. Smith was actuated in shooting his friend. The life of this young man, William M'Donald, was insured with three separate insurance companies for no less a sum than £2000, in each case in favour of Dr. Smith. The policies in force at the time of the death were as follows: £500 with the Scottish Union Insurance Company for five years, commeucing 9th January, 1852; £500 with the Northern Insurance Company

for five years, the last premium on which was paid by Dr. Smith on 18th November, 1853, the day before the death; and £1000 with the Caledonian Insurance Company for one year only, the risk on which began on 24th November, 1852, and ended on 24th November, 1853, five days after the death of M'Donald. All the proposals were made by Dr. Smith himself, who stated his insurable interest in M'Donald's life as "dependent on the life of a third party from whom he [Smith] expected double the amount proposed to be insured." Each policy contained a condition that it would not be vitiated in the event of suicide if assigned to a third party for onerous causes, or where the life insured was that of another person. At the request of the companies Dr. Smith sent M'Donald to their agents at Peterhead to be medically examined. The agents stated that the young man understood nothing as to the insurances, and appeared to take no interest in the matter. On one of them expressing astonishment at this ignorance and indifference, M'Donald replied, "The doctor's a fine chiel', and I have always done as he bade me." The life was accepted, and the policies were duly issued to Dr. Smith, who paid the premiums. It appeared from the evidence of Mary Slessor, the girl to whom M'Donald was engaged, that he had told her he expected to "get something off the insurance"

from Dr. Smith, but he did not seem to understand the nature of the transaction.

The mystery attending this matter of the insurances was not dispelled by the defence. William Milne, a brother of Mrs. M'Donald, had died on 20th December, 1852. There was some evidence that M'Donald had expected to succeed to his uncle's farm, and was disappointed at its being left to his cousin Charles. The latter, who, along with Dr. Smith, was one of Milne's executors, had never heard of the insurances. The prisoner at his first examination before the Sheriff declared that he had not effected any insurance on the life of M'Donald, but that Milne had done so, and had given him the money to pay the premiums. He was not sure if he had the policies, was unaware of their terms, and did not know they were payable to him in the event of M'Donald's death. He expected nothing would be recovered from them, as M'Donald had committed suicide. He had no writing from Milne about these insurances, nor could he say what interest Milne had in effecting them. He had an account against Milne for £46 for professional attendance, and the money for the premiums was a present from Milne (apparently a set-off against this account). The defence produced no evidence in support of this remarkable statement, and no attempt was made to prove that

Milne even knew anything about the existence of the policies. With reference to the doctor's ignorance thereof, as alleged in his declaration, James Greig, a friend of his and a local farmer, had been examined by the procurator-fiscal at the inquiry after the death. He told Dr. Smith that the fiscal had asked about insurances, and Smith then admitted that these existed and were in his own favour, adding that he expected to get £1500 or £1000 from them. Whereupon Greig, with untimely humour, remarked: "They'll blame you for pistolling M'Donald!" and Smith said that he had no doubt he would be made a prisoner. This conversation took place on the day of his arrest.

The only other point of importance in connection with this matter is the fact that Dr. Smith, aware from the conditions of the policies that if he could show no pecuniary interest in M'Donald's life, his claim might be resisted as being of the nature of a wager or gambling transaction, had prepared so lately as 14th November a declaration, signed by M'Donald and himself, to the effect that there was no wager of any kind between them. This document, together with the three life policies, was found in the doctor's repositories after his apprehension.

The evidence regarding the weapon with which the fatal shot was fired has next to be considered.

It was proved that the bullet lodged in the brain fitted the pistol found beside the body. The relatives of William M'Donald all positively swore that to their knowledge he never had a pistol in his life, and certainly no ammunition was found in his possession, nor was there any evidence that he had ever bought any. In his first declaration of 23rd November the prisoner denied that he had seen the pistol until the Sunday morning after the death, and stated that he had only the remains of an old pistol at home, which he had broken four months before, also that he had neither gunpowder, moulds, nor bullets in his possession. That day, however, the police had found in his house a pistol with a broken trigger, a pistol key, and a packet of gunpowder. They also ascertained that in the end of the previous August he had bought a second pistol in a shop in Peterhead, paying 4s. 6d., which price included a mould and key; that about the same time he purchased two dozen percussion-caps, and that two ounces of gunpowder had been bought by him at M'Leod's shop in the kirk-town, "a little before dark" on the very day of the death. Questioned as to these matters on 24th November, the prisoner in his second declaration stated that he had bought a pistol two years before at Peterhead, and that it had been repaired by Murison, the village blacksmith. He also admit-

ted the purchase of the gunpowder, which he had meant to use for ointment for a patient, Margaret Reid, for whom he had made up some a fortnight before. He denied, however, that he had opened the packet.

Now all these statements were directly contradicted by the evidence. The Peterhead pistol was *not* the pistol repaired by Murison, who identified the one with the broken trigger, found by the police, as that repaired by him in July. The doctor was seen, a few weeks before M'Donald's death, practising with a pistol in a park to the west of the village, and again, by a different witness, on 29th October, firing a pistol near his own stable door. It was therefore proved that the prisoner had possessed another pistol for which he did not account, and the defence made no attempt to show what had become of it. The Crown, on the other hand, alleged that this pistol was the fatal weapon, and a second pistol key, found on the prisoner when arrested, fitted it better than the broken pistol. The man who sold the pistol to the prisoner, however, could not say more than that it was one of the same class and of similar make, but he swore he did not sell the broken one. It was proved that the day before the death, the prisoner, in a shop at New St. Fergus, had made an unsuccessful attempt to purchase gunpowder, stating

that he required it "to shoot crows." It was also proved that the ointment made up by the prisoner for Margaret Reid did not contain gunpowder, that the packet which he procured on the Saturday had been opened and the string of it cut, and whereas it contained two ounces when sold to him, the contents, when found, only weighed one ounce and three-quarters. The defence maintained that the packet had been burst by the procurator-fiscal during the search of the premises, and a small quantity of the powder—"not half a teaspoonful"—was proved to have been spilt at that time, but "the fiscal made a pinch of it, and put it back." Joseph Harkom, gunmaker, Edinburgh, deponed that the quantity required to fire the ball in question (which weighed a quarter of an ounce) from the pistol produced would only be about eight grains. It would not take more than the eighth part of a quarter of an ounce.

All this looked bad for the doctor, but the surprise of the trial was the appearance in the box of the last witness in the case, Adam Gray, designed as "brother to the Provost of Peterhead," who told the following remarkable tale: He was at one time an auctioneer in Peterhead, and knew the late William Milne intimately. On Friday, 15th September, 1848, in Peterhead, William M'Donald introduced himself to him as Milne's nephew, and

made an appointment to meet his uncle. M'Donald then said: "You pick up things at roups [auctions]; have you no gun that you could sell me?" Gray asked, "Are you going to poach?" and M'Donald replied that "it was to frighten rooks from the crops." Gray then sold him a "useless" pistol for 4s. 6d., which he now identified by a notch on the stock as the pistol found beside the body—"I believe it to be the same pistol which I sold to M'Donald." In support of this statement he produced a small memorandum book, containing an entry of the transaction.

Gray was rigorously cross-examined by the Solicitor-General. He admitted that on his examination regarding this matter before the Sheriff, he had stated that there was no mark by which he could identify the pistol alleged by him to have been sold to M'Donald, and that he had no note of the time of the sale. The book, witness said, was kept as he pleased. The first page bore entries of the dates 1843 and 1831, the second 1843 and 1827, and so forth. The pencil entry as to the pistol was made at the time in his office. Another entry, dated "September, 1848," was, he admitted, written by him in Edinburgh that week. "Everyone keeps a jotter as he likes," explained the witness; "it may be a queer book, but it is true." The sale of the pistol was not recorded in his

regular books, nor was an entry, which appeared in the jotter, relating to the purchase of a case of pistols by him in 1831. He had been convicted and fined five pounds a year or two ago, for firing a gun at a man who was trespassing upon his property. He had known Milne's nephews by sight from infancy, but "could not point them out now." He had not seen the deceased for two years. He was not related to the prisoner, but had known him for several years, and believed him to be an excellent man.

Whatever weight may attach to the uncorroborated testimony even of a provost's brother, the crucial point of the case was the question of opportunity. The defence was virtually an *alibi*. M'Donald was last seen alive when he left the wright's shop shortly before half-past seven. The time when the shot which killed him had been fired was fixed within a minute by no less than five witnesses, who severally heard the report at twenty-five or six minutes to eight. Saturday was a busy night, and many of the villagers were out of doors. The church clock at the east end of the street was the criterion by which were regulated the individual timepieces of the inhabitants. They had the further advantage of a local bellman, who nightly performed the ceremony of curfew at eight o'clock. William Fraser, the celebrant in question,

left his house, situated on the Netherhill road, a quarter of a mile north of the village, at two or three minutes after half-past seven. When forty or fifty yards from his own door, he saw a flash to the southwest and heard the report of a shot. After visiting the shops of M'Leod and of Smith, the wright, he went to the church and rang the bell. Alexander Forman, at his farm at Netherhill, half a mile off, was waiting, watch in hand, "to supper his horses." At twenty-six minutes to eight he heard a shot from the direction of James Fordyce's house. The three other witnesses heard the report at five minutes after the half-hour.

How Dr. Smith spent certain momentous minutes between seven and eight o'clock that night was the matter of greatest contention between the prosecutor and the defence. It was admitted that about six o'clock the prisoner visited the manse, where he was not expected, although he had been professionally attending one of the servants, and that he remained there till five minutes to seven. Two Crown witnesses, Mr. and Mrs. M'Pherson, swore that they met him between the manse gate and his own house at ten or fifteen minutes past the hour, and recognised him by the light from the unshuttered windows of the wright's shop at the street corner, in which, as will be remembered, M'Donald then was talking to his

friends, and could be seen by anyone outside. In his declaration the prisoner said that he went home from the manse at seven, that five or ten minutes afterwards he went into his garden and brought in some flower roots which had been previously dug up, that he next walked about at the back of the house for some minutes, and then left to visit a patient, Isabella Anderson, at whose house he arrived at twenty-five minutes to eight, having observed the hour on her clock. We shall see later what Miss Anderson had to say to this.

For the defence, Martha Cadger, the doctor servant, said she let her master in between twenty-five minutes and half-past seven, that ten minutes after he went out by the backdoor to the offices, that she followed him there "to meat her pig," and saw him in the garden with a spade, that she did not see him again till he came home at nine, and that next morning (Sunday) she saw in the house some dahlia roots which she had not observed there on the Saturday. Eliza Park, his other servant, said that the doctor came in at half-past seven and went out again in ten minutes. The house clock, she admitted, was five or ten minutes fast. Some dahlias were brought in on the Sunday; she saw none on the Saturday. Alexander Duguid, who was in the kitchen that evening, said he left

to go home at a quarter to eight. He heard the doctor's step in the passage about half-past seven.

The evidence adduced by the Crown upon this point was as follows: John Aden, labourer, Moss of Rora, who lived near the M'Donalds and knew William well, stated that he walked home from Peterhead on the night in question. He was passing through St. Fergus when, at eighteen or twenty minutes past seven, west of Widow Robertson's inn, he met M'Donald and Dr. Smith, whom he knew by sight, walking side by side and speaking to each other. He said that he recognised M'Donald's voice, and he accurately described his dress. The doctor was wearing a white hat (as was otherwise proved he did that night). In the course of a lengthy and searching cross-examination by the Dean of Faculty it appeared that Aden, east of Robertson's inn, a few yards from where he met M'Donald and the prisoner, had asked a man the time. The latter struck a light and showed him that it was seven on his watch, which he said was half an hour fast. It was, therefore, in fact then half-past six. Aden could give no explanation of how he had come to say that he met the others a few yards further on at "eighteen or twenty minutes past seven." Although in hopeless confusion as to the hour, he stuck sturdily to his

statement that he had seen M'Donald and Dr. Smith together that night. After being sharply interrogated by the Justice-Clerk, Aden was committed to prison for prevarication.

In considering the evidence regarding the movements of the prisoner on the Saturday evening, the following facts should be kept in view: According to the evidence of a land surveyor the distance from the doctor's house at the east end to the field at the west end of St. Fergus where the body was found was only five hundred yards, which the witness said he walked easily in three minutes and forty-five seconds; the houses of the several witnesses now to be mentioned were all situated in the main street between those two points; and it was in evidence that rain began to fall that evening at five minutes to eight, and continued heavily for some time.

Isabella Anderson sent out her servant, Christina Gavin, shortly before eight on a message to M'Leod's shop, practically next door. The girl was five or six minutes in the shop, and met the bellman at the door as she went out. She returned home before the eight o'clock bell began to ring. During her absence Dr. Smith called on her mistress. When he came in he took up a candle to look at the clock, and drew Miss Anderson's attention to the time by it—twenty-five minutes to eight. He

said he was going to Pirie's and to Manson's. He only remained for about five minutes, and did not sit down. She saw nothing particular in his appearance. Now Miss Anderson swore that her clock was then a quarter of an hour slow, and that the actual time of his visit was ten minutes to eight.

Mrs. Pirie deponed that the doctor came to her door about five minutes to eight. He only stayed two minutes, saying he had to see Mrs. Manson, who lived over the way, and would shortly return. He did so in about ten minutes. She heard the bell ring in the interval. It was beginning to rain when he was at the door the first time; it was very heavy before he came back. Her husband offered him his chair by the fire, but after taking it the doctor rose and took one "far back at a side." He remained a quarter of an hour and then left.

Mrs. Manson said that the doctor paid her a visit about eight o'clock. She had been confined that day, but was not expecting to see him then. He remarked that when he came in that it was raining. He moved his chair behind her, and sat down without taking off his hat; she thought he did not wish her to look at him. He did not stay long. That evening she said to her husband that she did not know what was the matter with Dr. Smith; he was wiping his face frequently; she thought his nose was bleeding.

The arguments of counsel for and against the prisoner upon these facts will be noticed when we consider the addresses to the jury.

The only evidence as yet unexamined is that whereby the Crown sought to infer the prisoner's guilt from his conduct at and about the time of the death. It was disputed whether the message given by the boy Robert to the prisoner's wife after the discovery of the body was such as to indicate precisely the locality of the accident. However that may be, Dr. Smith was proved to have been seen about eight o'clock that Sunday morning going up the Netherhill road and standing for some time looking westward, at the point nearest to his house from which was visible the field where the body lay. The evidence of Pirie, the farrier, who at his request went with him at half-past nine to find the body, showed that the doctor certainly knew where to look for it; yet in his declaration the prisoner expressly stated, "I had no information where the body was," and when questioned on the point by Mr. Moir, the Free Church minister, he said, "We did not know where to go." He stated to several persons that M'Donald's snuff-box had contained gunpowder, but none of the witnesses who examined it saw anything of the kind. On the Monday after the death Dr. Smith told Mr. Moir that M'Donald had shot himself "by design,"

because "there were quarrels in the family," the existence of which was afterwards denied on oath by Mrs. M'Donald, her daughter, and her sons. Mr. Moir said it was a great mystery, which he would like to see better investigated, and remarked that it was a strange thing that anyone should have looked for the lad at a place so little frequented; if someone else had done it, he must have been dogged from the village. "I looked into his [Smith's] face," said the minister, "and asked, 'And where were you on Saturday night, doctor?'" It is due to the prisoner to say that without hesitation he mentioned the manse, Anderson's, Pirie's, and Manson's, and that the minister, who possibly had his own suspicions, saw nothing peculiar in his manner. Charles M'Donald, hearing of his brother's death, returned home on the Sunday and had a conversation with Dr. Smith. The latter said that William had been in low spirits of late, and that he had seen him at Burnside sit "with his head hanging among his feet, and not speaking." Charles from his own knowledge denied this, as also did the other relatives; and indeed all the evidence proves that William M'Donald was hale and hearty to the last day of his life.

Both Mrs. M'Donald and Robert saw Dr. Smith talking to William at the farm about two o'clock on the Saturday, and thereafter William told

them that he had promised the doctor to meet him at his (Smith's) stable door that evening about six, "to see a large printed paper he had never seen before." Mrs. M'Donald also swore that on the previous Monday she and William, being at Peterhead, met the doctor, who gave William a document resembling "the wager paper," which he was to sign and return to Smith the following night. The prisoner in his third declaration denied that this incident occurred, but the document itself bore to be signed by him and M'Donald that very day. From the first Mrs. M'Donald naturally refused to believe that her son had shot himself, and did not conceal her belief that he had met with foul play, but Dr. Smith "warned her that she would get into trouble for the way she was speaking." She also swore that William told her he was in the habit of meeting the doctor at his stable door of an evening "at bell-ringing"—"a mark was on the door to show whether he was to meet him"—and that William said he ought not to have mentioned the fact, as Dr. Smith had forbidden him to tell anyone of their meetings.

It was proved that on the Sunday Dr. Smith accompanied Hunter, the constable, who was making inquiries about the accident, to the house of Fraser, the bellman. The latter told them how he had heard the shot fired the night before. The

doctor made no comment at that time, but returned later alone, and asked Fraser, "If it would not be a quarter from eight that he had heard the report?" When under arrest at Robertson's inn on the following Tuesday, the prisoner privately gave the landlady's daughter letters to deliver to his wife and James Greig, and asked her, in a whisper, to go and see if Miss Anderson could remember that he was in her house at twenty-five minutes to eight, "and all would be right." Miss Anderson, however, "would not depart from the truth." The prisoner in his letter to Greig wrote as follows: "As I said—I would be a prisoner. Would you oblige me by asking, privately, at Mrs. M'Donald what she said to Mr. Boyd [the procurator-fiscal] today about me and William M'Donald, and about any insurances? But this must be very private, as the whole thing may be revealed."

We can only glance at the long and eloquent addresses of counsel to the jury. The speech of the Solicitor-General, while marked by strict fairness, marshalled with excellent effect the facts and circumstances which appeared upon the proof inconsistent with the prisoner's innocence. His argument, as reported, is more cogent and convincing than that of his great opponent, the learned Dean, who was stronger upon the moral improbabilities of the case than upon the proven facts.

The Solicitor-General at the outset referred to the difficulties which had attended the investigation, owing to the isolated and rustic nature of the place and the ignorant and simple character of the local witnesses. He then gave an admirable exposition of the nature and importance of circumstantial evidence. "It is impossible," said he, "that there can be direct evidence of secret crime, but circumstances in such a case may be viewed as the links scattered over a field of inquiry which, when gathered and put together, form a coherent and consistent chain by which you can be led up to the very door of Truth." He maintained that here there could be no question of accident, and that suicide, while possible, was in the circumstances of the case highly improbable. The doctors could only account for the position of the body if M'Donald had shot himself sitting or lying in the ditch, or had been placed in it by another. Now, if he shot himself in the ditch, he was below the level of the surrounding ground; but Fraser, the bellman, actually saw the flash from a spot several hundred yards off, with more than one fence and some rising ground between, and at a point where he could not have seen a flash within the ditch. If M'Donald did not shoot himself it was done to look like it, both as to the manner of the shot, the line of fire, and the placing of the pistol beside the body, by "a deliberate,

knowing, skilful, I was almost going to say surgical, hand." In dealing with the insurances the Solicitor-General said that the effecting of these by the prisoner was not merely a motive, it was an important step in the perpetration of the crime, and could not be separated from the other facts. He pointed out the absence of any evidence of Milne's knowledge of the insurances, and characterised as "monstrous and incredible" the prisoner's story that Milne embarked in these transactions because he was unable to pay his doctor's bill. The prisoner had denied that he knew the terms of the policies or that they were in his own favour, yet he told Greig he expected to get £1500 or £1000 out of them, and the £1000 policy was within five days of expiry on the day of M'Donald's death. With regard to the weapon, the Solicitor-General referred to the fact that the prisoner was proved to have purchased a second pistol of which no account had even to that day been given, that he had bought gunpowder upon a false pretence of making it up into ointment, and that the quantity missing from the packet was sufficient to have charged the pistol eight times. It was proved that M'Donald was never known by any of the family to possess either a pistol or gunpowder. Upon this point he criticised severely the evidence of Gray, whose allegation of having sold the pistol to M'Donald he attributed

to his zeal to serve a friend, and said that he (counsel) did not value his evidence a single rush, and he was satisfied that the jury would not believe it. On the question of opportunity the Solicitor-General observed that the shot was proved by five witnesses to have been fired at twenty-five or six minutes to eight. Till seven the prisoner was in the manse, till past seven M'Donald was in the wright's shop. Mrs. M'Pherson saw the prisoner near that shop (those within being visible from the outside) at ten or fifteen minutes past seven, but up to ten minutes to eight, when he visited Miss Anderson, the prisoner was unaccounted for. The jury must judge of the evidence of Aden that the two were seen by him together that night, which could not be true unless the time he named—eighteen or twenty minutes past seven—were nearly correct. It was proved that it would take less than five minutes to walk from the prisoner's house to where the body was found, so that he had ample time to commit the deed. Even upon the evidence of the witnesses for the defence, fourteen minutes elapsed between the prisoner leaving his house and the hearing of the shot, which was about three times as much as was required to reach the place. He contended that the evidence for the defence on this point had not shaken that given for the Crown. Then there was the visit of the prisoner to

the bellman and the message he sent to Miss Anderson, whereby, "finding himself under the necessity of proving an *alibi*, he endeavoured to adjust the evidence as to time; to get the man forward and the woman back, so that the time of Fraser's hearing the shot and the time of the prisoner's visit to her might be brought as near as possible." They also had the prisoner's conversation with Greig and the letter which he wrote to him. All these acts were inconsistent with his innocence. The Solicitor-General concluded by saying he had satisfied the jury that M'Donald's death was not the result of accident or of suicide; that the prisoner had the most tremendous motive to wish him dead, and had shown that by that motive he was actuated; that he possessed the means; that he had the opportunity; and that the indications he gave of his mind all led to the conclusion that he was the guilty man. On the whole matter he believed he had good grounds for asking and expecting from the jury a verdict of guilty against the prisoner.

The Dean of Faculty, in his address, expressed the greatest astonishment at the confidence displayed by his learned friend, as he had never seen a case in which a prosecutor was less entitled to adopt such a tone. It was a remarkable feature of the case that there did exist upon the part of the prisoner an interest or motive to commit this crime; but

if there was no evidence of the commission of the crime, separately and independently of the motive, in which they could come to a sound and rational conclusion, the motive alone was by itself perfectly insufficient. The learned Dean then proceeded to walk delicately over the thorny ground of the insurances. He contended that if M'Donald understood very little about the matter it was his (counsel's) belief that the prisoner did not understand much more. However the insurances came to be effected, whether by Milne himself or by the prisoner at the instigation of canvassers, they began in 1852. The crime must therefore have been projected and prepared in the mind of the prisoner from the very beginning of the insurance business. If so he must have been a wonderful man, continuing as he did in daily, friendly intercourse with his family and acquaintances, while "meditating one of the most fearful offences that had ever been brought under the cognizance of a court of justice." After drawing a graphic picture of the mental state of such a miscreant, "he ventured to say that such a thing never occurred before—it was beyond the dream of a romance writer." Eleven years later, however, the Dean of Faculty himself presided, as Lord Justice-Clerk, at the trial of Dr. Pritchard, whose character and conduct afforded a complete refutation of this argument. The first essential step

in the prosecutor's case was the truth of the *corpus delicti*, which, the Dean submitted, it had failed to establish. He admitted that the circumstances of M'Donald rendered suicide exceedingly unlikely, but it was vain to say that antecedents were conclusive in such a case. Both the medical men said that there were no materials on which they could form an opinion. Was murder, then, proved? It was impossible to say so. It was a very remarkable thing that, while the death of M'Donald was caused by a pistol bullet, neither bullets nor mould were found in the prisoner's house. If he had put them out of the way "it was a very odd thing that he should not have disposed of the powder also." The learned Dean did not point out that it was at least equally remarkable that M'Donald had no ammunition whatever in his possession, while the prisoner had been seen practising with the missing pistol on two occasions shortly before the death. Why, continued the Dean, should the prisoner, who had been maturing this crime for two years, have resorted to the noisy violence of shooting? "There were subtle and secret agents by which human life might be destroyed, of which any man in the medical profession had the most secure and perfect command." It must have been within the Dean's recollection that in 1849 Dr. Webster, Professor of Chemistry in Harvard University, a

man of noted scientific attainments, decoyed his benefactor, Dr. Parkman, into his own laboratory in Boston Medical College, and there, "surrounded," like Mr. Venus, "by the trophies of his art," this chemical adept set upon and slew his unsuspecting visitor with a bludgeon. In regard to the purchase by the prisoner of a second pistol at Peterhead, the Dean complained that, when examined, he had not been asked what had become of it. It was all very well to say that he might have brought witnesses to speak to this, but there were some things incapable of proof. It was true that he had bought caps and gunpowder; these were just the scraps of which the case was made up. What did it matter whether the powder was bought on the Friday or the Saturday? It was as likely to have been bought on the former as on the latter day, if a murder were contemplated. He contended that the packet was burst by the fiscal when engaged in the search of the prisoner's house, and that it was by no means certain the box of ointment produced was that given to the girl Reid by Dr. Smith. The Dean maintained the credibility of Gray, and said that, on the assumption that he was worthy of belief, there was no proof that the pistol ever belonged to the prisoner, while they had direct evidence that it belonged to M'Donald. On the question of opportunity the Dean asked the jury to

trust to something better than the time of clocks, namely the sequence of events. He said that if there was in fact a tryst between M'Donald and the prisoner for six o'clock, which he thought highly improbable, it was very certain that the doctor did not intend to keep it, for he visited the manse at six, and remained an hour. The Dean then exhaustively reviewed the evidence of the witnesses who spoke to the movements of the prisoner, and argued that he could not have committed the murder between his leaving home and his going to Miss Anderson, and that it was impossible that he could have been elsewhere than in her house when the shot was fired. With the exception of an absurd observation of Mrs. Manson, the prisoner when seen that night had none of the *indicia* of a murderer about him. As to the various instances of the prisoner's actions subsequent to the death, from which the Crown sought to infer his guilt, "these were not in the least wonderful points in the conduct of an innocent man, anxious to prove his innocence." The learned Dean concluded by saying that he had never seen a prosecution fail as that one had done and the Crown still ask for a verdict, and that on coming into Court that morning he had not expected to have been obliged to address the jury. He confidently asked a verdict which would completely clear the prisoner's character.

It is interesting to note in passing the marked difference in tone between this speech and that delivered three years later by the same great advocate in defence of Madeleine Smith. The latter, an acknowledged model of forensic eloquence, contains passages so powerful in argument, so impassioned in rhetoric, as to take captive alike the reason and the imagination. The former, from whatever cause, presents no such attractive features.

The Lord Justice-Clerk, in charging the jury, said if this were a case of murder, it was certainly the most atrocious one that was ever brought before that Court. At an early period of the trial, however, he had formed the impression that, unless there was more evidence brought than appeared likely, there was not enough to infer the guilt of the prisoner or to substantiate the fact that a murder had been committed. Since hearing the whole case that impression had been strengthened and confirmed. After the evidence of Gray, he thought it was necessary to call their attention to the question whether a murder had been committed at all? The doctors could not say whether the death was caused by violence or by suicide. The pistol purchased by Dr. Smith at Peterhead was only proved to be "like" that found beside the body, and there was not a single circumstance

tending to prove that it was a murder and not suicide, except that pistol. If that pistol, therefore, was not proved to be the prisoner's, what single act had they in the case bringing him into contact with M'Donald at all in the matter of his death? The motive might have existed, but from that they could not infer the commission of such an act. The opportunity he might have had, but so had many other persons in the kirktown. The prisoner ought to have been asked as to the pistol bought by him at Peterhead; that point was of ten times more importance than many of the circumstances on which he was examined. After the evidence of Gray, unless they believed that he had committed deliberate perjury, it was impossible any longer to hold that the pistol found near the body was the pistol of the prisoner. Unquestionably, in view of M'Donald's character and position, the moral evidence was all against the supposition of suicide; but looking to all these facts, assuming that they did not think it was a case of suicide, it still remained a murder wholly unexplained, and not proven against the prisoner. As to Dr. Smith's false statements in his declaration about the insurances, these might be accounted for by those mistaken acts by which accused persons, whether innocent or guilty, sometimes endeavour to clear themselves. The whole case might be surrounded

with suspicion and difficulties, but in the view he took of the case it came to be an unexplained murder, the evidence having failed to connect the crime with the prisoner at the bar.

His lordship then asked the jury whether they wished him to go over the evidence; and the jury, having intimated that they did not, then retired to consider their verdict.

During their deliberations the unfortunate Aden, who had been committed for prevarication as already mentioned, was brought to the bar. The Justice-Clerk was of opinion that he had wilfully stated what he knew to be false, either from a desire to make himself of importance or to bring himself into the case. His lordship said his intention had been to pass sentence of six months' imprisonment, but as the other two judges thought Aden's behaviour was only due to stupidity, the Court would not inflict any punishment. He was accordingly discharged. With reference to this matter the *Edinburgh Courant* (18th April, 1854) contained a paragraph to the effect that they had been requested to state that the Solicitor-General had seen and precognosced (examined) this witness himself before the trial, and that Aden had then told the story as to meeting Smith and M'Donald together about twenty minutes past seven substantially as he had repeated it in the witness-box. The conduct

of Aden was probably due to confusion arising from the novelty of his position.

The jury, after an absence of ten minutes, returned into Court with a verdict of "Not Proven by a majority." The Justice-Clerk then put the somewhat unusual question whether their difference of opinion was between "Not Proven" and "Not Guilty," and received the unexpected reply that it was between "Guilty" and "Not Proven." The prisoner was accordingly dismissed from the bar.

The failure of the prosecution to obtain a verdict was, like the acquittal of Madeleine Smith, largely due to the fact that the Crown did not prove to the satisfaction of the jury that the prisoner was in company with the deceased on the night in question. It was stated in the *Scotsman* (19th April, 1854) that the division among the jury was eleven for "Not Proven" and four for "Guilty"; and that the prisoner, on being liberated, was not, as currently rumoured, re-arrested upon another charge. The verdict would not appear to have been popular. It was received with hisses by a crowded court, and although the prisoner, for his own protection, was detained within the building for some time, when at length he was allowed to go he met with a hostile reception. He left the city that night, and so passes from the public view.

We have the authority of the late Lord Moncreiff for the fact that, notwithstanding his acquittal by the jury, Dr. Smith did not succeed in obtaining payment of the policies of insurance. Actions were raised, but on the insurance companies defending them they were abandoned, and the policies lapsed.

THE LAW AND MRS. YELVERTON

I have heard lawyers say, a contract in a chamber, Per verba [de] presenti, *is absolute marriage.*

—"THE TRAGEDY OF THE DUTCHESSE OF MALFY."

THE SCOTS LAW OF MARRIAGE IS TO THE uninitiated a mysterious force, fraught with peril for the celibate, and affording, like Mrs. Todgers's notion of a wooden leg, scope for the exercise of respectful wonder. In no land less favoured are the gates of matrimony supposed to stand so invitingly

ajar, to the end that heedless folk, almost before they are aware, may with a minimum of effort find themselves across the threshold. Compensation for this fatal facility of access, however, might be held to reside in the ample means of exit by the backdoor of divorce, available to sojourners who should become weary of the entertainment provided within. The popular belief as to the ease with which in Scotland marriage can be contracted —a belief forming the *motif* of Mr. Wilkie Collins's *Man and Wife*, designed by that ingenious author to make his single readers' flesh creep—receives but scant support from the circumstances of the case here briefly to be narrated. During the years 1858 to 1864 the question whether or not Theresa Longworth was the lawful wife of Major Yelverton successively occupied the attention of the Courts of the three kingdoms, and the result of so much applied wisdom is no less curious than instructive. First, an Irish jury found that she was; next, a Scottish Lord Ordinary declared that she was not; then the First Division of the Court of Session (by a majority of two to one) decided that she was; and finally, the English Law Lords (by a majority of three to two) determined that she was not! Thus of the nine judges who dealt with the case four were for and five against the validity of the Scottish marriage; from which it would appear that

to be married, even in Scotland and however irregularly, is not such a simple business after all. "It is in the Courts of Law," as Mr. Joseph Conrad has somewhere said, "that Comedy finds its last refuge in our deadly serious world."

The story of the great Yelverton marriage case, the most interesting consistorial cause in our records, deserves attention by reason of the remarkable character of the heroine, the picturesqueness of the setting, the originality of the plot, and the dubiety of the conclusion—like the pudding instanced by the mayor in *Woodstock*, it has more ends than one; yet these manifold attractions notwithstanding, but for the sketch by Mr. F. P. Walton in his popular guide to matrimony, no short readable account of the facts, so far as I am aware, exists. Material is not lacking; the proceedings in the Court of Session and in the House of Lords are printed at large; no less than three reports of the Irish trial, in highly injurious type, were published at the time, and the correspondence of the parties, edited by the lady, in itself furnishes a volume; but these authorities, for diverse reasons, are not to be read running, and there seems room for a less technical and exhaustive relation.

The scene of the prologue was the deck of a cross-channel steamer from Boulogne to London; the time a summer night in 1852; and the actors two

voyagers, who, travelling separately and alone, made acquaintance on the passage. One was a young lady of attractive aspect, agreeable manners, and romantic temperament; the other, a good-looking man of twenty-seven, with a martial air, and a redundancy of beard and whisker that would have provoked the wrath of Mr. Frank Richardson. The lady dropped her shawl, the gentleman replaced it on her graceful shoulders, an exchange of courtesies ensued, and the elements being propitious, the couple spent the remainder of the night on deck, where, sheltered by the gallant officer's plaid, they enjoyed across the quiet sea the beauty of the sunrise. A devout Catholic, the lady afterwards attributed the meeting to the patronage of St. Anthony. The plaid in later years reappeared in their correspondence; it formed a canopy over the owner's bed in his leaky tent in the Crimea, and still retained, as he declared, some reminiscence of "the only night I remember on board a steamer." "Blessed plaid!" comments the lady, "to retain the magnetic fluid of all this long time!" adding, with what good reason for solicitude she little realised, "Pray do not lose it, or share it with anyone again." What happened when the steamer reached London, whether he called on her that day and how he behaved, is disputed; but admittedly they saw no more of one another till the autumn of 1855.

Maria Theresa Longworth, daughter of a prosperous silk-spinner in Manchester, was born about 1832. She and her sisters, having lost their mother early, were educated at an Ursuline convent in France. The sisters afterwards married: one, Madame Lefebvre, lived in Boulogne; the other, Mrs. Bellamy, at Abergavenny Castle, in Wales. When her schooldays were over Theresa went back to her father's house at Smedley, but certain religious differences led to her leaving home. After his death she spent most of her time on the Continent, and saw much of Madame Lefebvre, with whom she had been staying when we met her returning to England to visit her other sister. Her fellow-passenger, the Hon. William Charles Yelverton, younger son of an Irish Protestant peer, Viscount Avonmore, was a captain in the Royal Artillery, without private fortune, then leading, presumably on his pay, the usual life of a man about town.

Though our sentimental travellers did not meet again for three years, the mutual impression received by them upon that summer night was not suffered to fade. Some months after the parting Theresa wrote from Naples to Yelverton, who was then stationed at Malta, asking him to forward a letter from her which she enclosed to a cousin at Monastir. Over and above the saving of time in transmission, there is no doubt that she sought

opportunity to revive their brief acquaintance. The gentleman proved nothing loth; and a correspondence began between them so voluminous that at the subsequent trial no less than 122 letters were produced, 66 written by him and 56 by her, while it clearly appeared that as regards both sides a great many more were, wilfully or otherwise, withheld. Theresa was no ordinary correspondent; even for a letter-writing age her pen was singularly fluent. Her early letters are brilliant and pointed, abounding in shrewd observation, and show an obvious desire to renew and continue the acquaintance upon more intimate and familiar lines; the tone, allowing for a certain straining after sentimental effect then fashionable, which now sounds rather fantastic, is graceful and refined; and the transition from friendship to a warmer feeling seems plainly spontaneous, and without any taint of artifice or design. Her florid literary style and extravagant, if not always accurate, use of foreign tongues reminds one of the purple pages of the great Ouida. In the flamboyant 'fifties a lady enamoured might so write without fear or reproach. That her military friend appreciated the freshness and vigour of this gifted correspondent is clear, but his letters from the first combined with a nonchalant man-of-the-world tone a note of caution, which might well have put a less enthusiastic damsel on her guard,

and as a writer of love-letters he was regrettably vague on the subject of matrimonial intention. "My dear Captain Yelverton" and "My dear Miss Longworth" gradually ripened into "Carissimo Carlo mio," "Cara Theresa mia," and finally "My dearest little Tooi-tooi," with endearing variations. One notes that it was the man who first overleaped the formal barrier. The reading of these letters invites, for the student of such matters, comparison with the equally famous series then being written for the amazement of posterity by Madeleine Smith; but those of Theresa Longworth, apart from their wider range, greater originality, and higher intellectual power, are wholly free from such crude indelicacies as disfigured the pages of the syren of Blythswood Square.

Both were desirous to meet again; and when, in the autumn of 1853, the captain, having been home on leave, was returning to Malta, he tried to arrange an interview at Naples. The plan fell through, but in the following year the lovers were caught up and swept together by the tide of international events. On the outbreak of the war with Russia in 1854 Yelverton went with his regiment to the Crimea, and the romantic Theresa, assuming the garb of a *Sœur de Charité*, betook herself to the French Hospital at Galata. "I think it is a sort of vagabond life [that] would just suit me," she

wrote to the warrior, announcing her intention; "but a *vivandière* might be a little more exciting. Wouldn't you be glad to see me, with all my plasters and bandages and charming little barrels when you were half-choked with smoke and powder? What an *ange de miséricorde* I should appear to you under these circumstances." Yelverton, having received promotion, was obliged to go to England in the spring of 1855, and had left the East before Theresa reached the scene of her ministry. He returned in the autumn, and at Galata they met for the second time. As to what happened on this occasion the parties are sharply at variance. The lady asserts that, as the natural result of his epistolary courtship, the major proposed marriage, which she accepted; that they became engaged upon the footing that their marriage should be postponed till the termination of the war, and that she communicated the fact to her sister Mrs. Bellamy. This lady was not called as a witness at either of the trials. The major, on the other hand, maintains that he only went to see her at her request; the interview was short, "but in consequence of the advances made by the pursuer, great familiarities ensued."

In 1856, when hostilities had ceased, Theresa left for the Crimea on a visit to Lady Straubenzee, wife of a general officer commanding a division of the British Army. There the parties frequently met,

and according to Theresa their engagement was well known to her host and hostess. The major, she says, informed her that he was in great pecuniary embarrassment and wholly dependent upon an uncle, who, for family reasons, did not wish him to marry; he therefore proposed that they should be married privately in the Greek church at Balaclava; but she would have nothing to do with his scheme for a secret marriage, and returned to Constantinople without any definite arrangement between them as to the date of the ceremony. All this the major denies. He says they parted on board the steamer in which she was to sail for the Bosphorus, and at the Irish trial he gave in the witness-box so gross an account of his behaviour to the lady on that occasion that the Court had to be cleared, and the reporters were unable to publish the details. Sir Thomas and Lady Straubenzee afterwards deponed that the major called almost daily while Miss Longworth was with them, and that they regarded him as an honourable suitor for her hand.

Now, in the whole correspondence up to this point there is not a word that any lady would hesitate either to write or to read, and one naturally expects that the tone of the subsequent letters would be affected by this ugly episode, if it in fact occurred. In her first letter to him after their parting she writes: "This time last Saturday night, Carlo mio,

was our *second* steamer scene. God grant the third be not far distant—and the consummation of all"; and after discussing at length the difficulties created by his uncle's attitude, she begs him to be as frank with her in his letters as he had been when she was near enough to read his heart: "As I know the length, depth, and breadth of your wickedness now, you need have no fear of losing my good opinion." She is surprised at his present state of feeling towards her: "Our correspondence ought to have generated in you, as in me, esteem, admiration, affectionate trust and confidence, idealised ethereal love, a love to live or to die for, a little Platonic at first, but finally becoming the elixir *par excellence* of life. You might be in love with a Turkess instead of an over-spiritualised Englishwoman, . . . but you must, you will eventually, become all my heart's desire." That this rhymes better with her than with his version of their parting admits of little doubt. He had shocked her sensibilities by displaying the material quality of his admiration, but when she wrote thus it is impossible to believe that she was expressing a hope that Yelverton would so improve as to become fit for a paramour; and when she prayed God that the third eventual scene between them might not be far distant, she was surely not soliciting from the Throne of Grace a consummation of sin and shame. In her

next letter she argues that the considerations he had assigned were not sufficient to prevent matrimony: "All these reflections lead me to think that there is something more than the money difficulty which you have not had the courage to tell me, Carlo. If so, I have only three words to say: for God's sake, let this be the end, . . . we must not meet again." This hardly helps the major's case that the lady was urging him to take her as his mistress. As appears from his own evidence at the Irish trial, the "something more" that the honourable and gallant gentleman lacked courage to tell her was that he had formed the idea of her seduction—a design of which he said the laudability or otherwise depends upon whether it is found out or not—as the less costly means of attaining his object.

Monetary difficulties and the veto of the wicked uncle continued to play their part in the subsequent correspondence. The major delayed his coming to see her again at Constantinople before leaving for England, and Theresa, world-weary, contemplated taking the veil, but her affection for her unsatisfactory fiancé proved too strong. "Oh, I want you so much to come," she writes; "all nature is so lovely that it is a sin not to rejoice with her in her smiling bright new dress. The hills are white with daisies and the valleys green with fresh

moss, the trees are all loaded with varied blossoms and the air is heavy with delicious odours; there is a south wind breathing warmth and telling me of you." She envies the birds busy building beneath her window and chattering about it all day long: "Doubtless they have no uncle to prohibit their happiness on their little mud wall!" So she pled, and very prettily, but to deaf ears; Yelverton returned to England by Odessa and the Danube. It is curious that if, as he says, the lady was begging him to become her protector, this Ouidaesque hero, whose whiskers were stronger than his morals, should have hesitated to comply with her request. "Cara Theresa mia," he wrote to her from Vienna on his way home, "the fraternal scheme was a physical impossibility. I dreamt it; and waking, found that the chivalry was not departed, but superseded; therefore, as I could not be what you wished, I determined not to persist in a course which must end in converting me into a modern Tantalus." Although she told him that if he desired the curtain to fall between them forever he had but to say so, in his next letter, written from Dublin, he expressed the hope that they should meet again in London, and the correspondence continued as vigorously as before.

After spending some months in the East, Theresa returned to England towards the close of 1856.

She had complained that in his letters he blew hot and cold. "You want to know how I make myself at times indifferent," he replied; "I'll tell you. It is that, knowing I cannot gain on your terms, I will not try on mine." What his terms were he told the Irish jury; her terms were marriage, and he knew it. On 15th January, 1857, from her sister's castle of Abergavenny, she wrote to him at Leith Fort where he was then stationed: "Only think of my having three letters to answer at once, and one due South too!" These letters, unfortunately, were not forthcoming for a reason which will afterwards appear; but one at least was in his warmer vein, and while we do not know whether Theresa went to Scotland by his request or, as he alleges, uninvited, unsolicited, and unexpected, the probabilities are in her favour. She was accompanied by a young lady named Arabella Macfarlane, whose father and her own were friends; and arriving at Edinburgh in February, took lodgings at No. 1 St. Vincent Street. Mrs. Gemble was their landlady, and they occupied a bedroom and two sitting rooms in her flat on the third floor. According to the evidence of Miss Macfarlane at the trial, they went into society in Edinburgh, visiting Lady Murray, Mr. Robert Chambers, and other representative citizens. Major Yelverton was a constant caller. He was polite, respectful, and attentive; she re-

garded him as her friend's fiancé. He spent his afternoons with them and often rode out with Miss Longworth. He never stayed all night, and she was generally in their company. Her Church of England prayer-book usually lay on the sitting-room table. A question as to a remark made by Miss Longworth to her with respect to that book was disallowed. Mrs. Gemble corroborated; she understood the parties were engaged, and the major told her, with reference to her lodger's accomplishments, "When I marry Miss Longworth I will marry the cleverest lady in Edinburgh."

Now, Theresa averred that on 12th April, 1857, within Mrs. Gemble's house, she having yielded to Yelverton's continued pressure for a secret marriage, they solemnly acknowledged and declared each other to be husband and wife; that they also read through the Church of England marriage-service together; and that the major then said, "This makes you my wife according to the law of Scotland." But though so far abandoning her former scruples she, as a Roman Catholic, refused to cohabit with him until they had gone through the ceremony before a priest of her own faith. This by no means suited the bridegroom's book; he expressed great displeasure, and some ten days after the episode, to escape his importunities, Theresa left Edinburgh on a visit to friends at

Hull. Miss Macfarlane went into retreat at St. Margaret's Convent, Morningside, and the major resumed those regimental duties which of late he had so sadly neglected. Yelverton, on the other hand, averred that while in Edinburgh they carried on a secret and illicit intrigue; according to his case, there never was a marriage, nor a marriage engagement, nor a promise of marriage between them. The half-dozen letters written by him at this time, addressed "Carissima" and signed "Carlo," relate merely to social engagements.

Theresa continued to write to him in her usual strain, and wholly without any sign of the radical change in their relations which he alleged had taken place. In one of her letters she enclosed, without comment, the marriage cards of a Mr. and Mrs. Shears, whose acquaintance she had made abroad. In his reply he actually pretended to believe that she herself was the bride! "By your marriage," he writes, "you have earned my lasting gratitude, as on reflection I found that I had placed myself in a false position with regard to you, and one of all others most painful to me, viz., *that I had promised to you to do more than I could have performed when the time came.* You may think this declaration a new example of the truth of the old fable, but it is not so." The words which I have italicised can only mean that he had promised either to marry

her or to acknowledge that she already was his wife, a gloss which his reference to sour grapes goes far to confirm. Theresa was terribly upset. "Are you mad or am I?" she answers, "that you should judge me guilty of such an infamous thing—God help me! I do not know how to bear this last blow." But the misunderstanding was removed, and by July she suggests in preference "to our other project" a plan for their being married at Manchester, whither she was going, "in the old cathedral, where my forefathers lie." There he was unknown, and their purpose would be "ignored by mortal creature." On 12th July, just three months after the Scottish marriage, she writes to him: "My ears ache to hear the *mia*, though I am convinced you might say it with perfect truth now, *and for exactly three months past.*" This plainly refers to the St. Vincent Street ceremony of 12th April.

The major was now in Ireland on leave. According to Theresa, he wrote to her from Dublin that he was at last prepared to agree that their marriage should be celebrated formally by a Catholic priest, and inviting her to come to Ireland for that purpose. This letter, like many of equal moment, was not forthcoming; but it was proved that on 25th July Yelverton bought a wedding ring from a Dublin jeweller, and on the 28th the couple met at Waterford. From that date until 15th

August they admittedly stayed together at Malahide, Newry, and Rostrevor. They engaged in the various hotels which they visited a sitting room, bedroom, and dressing room which contained a bed, so there is no architectural reason for rejecting the lady's statement that until the religious ceremony was performed they occupied separate rooms. On the other hand, the moral probabilities are in favour of the major's contrary assertion; and the pair were naturally regarded by the hotel witnesses as married persons. At Rostrevor Theresa consulted the Rev. Bernard Mooney, parish priest of Kilbroney, with reference to her matrimonial position. He took her to his diocesan, the Roman Catholic Bishop of Dromore, who told her that her marriage was valid in the sight of the Church, that banns were in the circumstances unnecessary, and authorised Father Mooney to perform, as requested by the lady, a ceremony of renewal of marriage consent. Accordingly on Saturday, 15th August, being the Feast of the Assumption, the major and his bride appeared before the celebrant in the chapel of Killowen after Mass. "Mr. Mooney," said the bridegroom, "there is no necessity for this; it has all been previously settled, but I will do it to satisfy the lady's conscience." The priest understood him to refer to the Scottish marriage, and asked if he were a Catholic, to which

with characteristic ambiguity Yelverton replied, "I am a Protestant Catholic." "As you are both willing, I have no objection," said Father Mooney; whereupon the couple knelt at the altar and repeated after the priest the marriage ritual of the Roman Church. The only part of the service omitted by Father Mooney was, he says, the Benediction. In the description of the ceremony which Yelverton afterwards gave to Dean Ramsay, he said it took place "in a schoolroom," and consisted merely in the priest pronouncing the Benediction!

The first use made by Yelverton of his marital authority was to cause Theresa to burn such of his letters as she had with her which bore reference to the arrangements for the marriage. Apart from these, she produced at the trial all letters she had received from him; but it is noteworthy that the major, with a single exception, produced no letter written by her to him subsequent to the Irish ceremony. After the wedding the couple travelled together for a fortnight in Ireland; then the bridegroom went to visit his relatives there, and the bride returning to Edinburgh and finding Mrs. Gemble's rooms unavailable, took lodgings with Mrs. Stalker at 31 Albany Street, where she was joined by Miss Macfarlane. Mr. and Mrs. Thelwall, the friends with whom she had stayed at Hull, also paid her a visit. The night before they left,

Yelverton arrived; he was introduced to them, and they spent the evening together. At the trial in Scotland Mrs. Stalker, Miss Macfarlane, and Mr. Thelwall—his wife was too ill to be examined—all swore they understood Theresa to be married to the major, but that for family reasons the marriage had to be kept secret. He dined and slept in the house nightly, and by day attended to his duties at Leith Fort. In the autumn the pair enjoyed a trip to the Highlands, in the course of which they visited Doune Castle, where it was proved the major entered their names in the visitors' book as "Mr. and Mrs. Yelverton." On their return they continued to occupy Mrs. Stalker's rooms. One day they rode out to see Craigmillar Castle, and the caretaker deponed that the major told him to hold "his wife's" horse; he was shy of horses, but the gentleman reassured him by saying, "My wife's horse is a quiet one." At Seafield Baths, which they frequented, Yelverton was proved to have described Theresa as his wife.

In November it was arranged that they should visit the Thelwalls, but the major could not get away, and Theresa went alone. He booked a passage by the Leith steamer for "his wife," and asked the stewardess to let "his wife" have a cabin to herself. On 31st December Yelverton joined her at Mr. Thelwall's house. That gentleman, who was an

ironmaster and a person of position in Hull, had known Theresa for fourteen years. He was told that as Yelverton desired for private reasons to conceal the marriage, and as his housekeeper knew some of the major's friends, it would be better not to mention names before the servants, and effect was given to this arrangement. When the couple left Hull it was proposed that they should travel on the Continent, and Yelverton consulted his host as to having a movable stone made for Theresa's wedding ring, which she could put on if she met any of her relatives. In the course of the conversation Theresa remarked that should she die and be buried abroad they would have to bring her body back to England, in which case, says Mr. Thelwall, "she said that having been twice christened and *twice married*, she would also be twice buried; whereupon the major laughed." At his request Mr. Thelwall procured a passport in name of "Mrs. Theresa Yelverton," she already having one in her maiden name, and the parties went to France, where they stayed until April, 1858, when the major's leave expiring he returned to Leith, and Theresa, who was not in a state of health to travel, remained at Bordeaux.

During the tour in France they met at Dunkirk a London gentleman, Mr. Goodliffe, who was living in the same hotel. He knew the major as a

bachelor, and finding him in company with a lady whom he called his wife, said, "Well, Yelverton, is this all right? Is it on the square?" to which the major replied, "Yes, she really is my wife, but we have been married secretly. I am obliged to keep it secret from my family"; and he entered, says Mr. Goodliffe, into a long explanation regarding his relations with an uncle, specially asking Goodliffe not to mention in society the fact that he had met his wife. It was also proved that while Theresa remained at Bordeaux she received letters with the Edinburgh postmark and addressed to "Madame Yelverton," which the major admitted were written by him. In May a miscarriage occurred, and so ill was Theresa that her sister Madame Lefebvre had to be sent for. That lady wrote twice to Yelverton as to her sister's state; he acknowledged the bulletins, but in writing to Theresa treated her illness lightly, and made no offer to come to her. When she was sufficiently recovered, Madame Lefebvre took her to her own house at Boulogne.

According to the evidence of all the witnesses, Yelverton's behaviour to his companion from the time of the Irish ceremony was invariably kind and respectful, in every way becoming that due to a wife. In one important point, however, he fell short of an ideal husband, for Theresa avers that the whole charges of the Irish interlude, of the

Highland tour, of the housekeeping in Edinburgh, of the visit to England and the Continent, and of the residence there, were borne by herself alone. The major, admittedly, was throughout hard up, while she was a lady of some means—she had £300 or £400 a year—and was, besides, very much in love.

Although the couple were in constant correspondence, Yelverton, as already stated, could produce only a single letter from her applicable to this period. Among those of his produced by Theresa is one dated December, 1857, in which he expresses anxiety as to her condition: "The cat must be kept in the bag just now, for if the fiery devil gets out now, she'll explode a precious magazine, and blow us all to the devil. In the future there is hope of being able to loosen the strings." Plainly the feline metaphor better fits a secret marriage than, as the major afterwards explained it, a commonplace intrigue. The child was expected in June, 1858; it will be remembered that the Irish marriage took place in August, 1857; which facts go far to confirm Theresa's account of their relations. "You say, 'I told you my resolution in case certain events occur. You were very angry, but it would be my duty, and if I live I must do it,'" he quotes from an unproduced letter of hers. "Where is your duty of keeping faith with me?" he asks; he has done

more than he promised at a great risk, and the expected event is equally unwelcome to him. "If I depart this life," he continues, "you may speak; or if *you* do, you may leave a legacy of the facts; but whilst we both live you must trust me, and I must trust you. When I find my trust misplaced, if you have any affection for me I do not envy you the future. Your duty lies this way, not that." Again, with which story does this better square, hers or his, marriage or an illicit union? Why should a military man of that day be very angry at the prospect of the world knowing that he had a *liaison* with a beautiful and brilliant woman, and what would it profit the lady to publish after his death the fact of her own dishonour? But if her resolution were in certain events to proclaim *the marriage*, it is not surprising that her letter was withheld. In the only letter of hers which the major was able to produce, written from Boulogne in June, 1858, Theresa tells him how ill she has been, and says he may be convinced by coming to see the wreck she has become. "If these my sufferings for your sake have not endeared me more, do not think there is any obligation imposed upon you; let it be forgotten. As to the other business, I do not see any other course than to tell your mother the truth, as you proposed doing. Surely she will forgive and help you; she has a mother's heart and a clever head.

Do not, in the hope of patching matters up, throw away our last chance of united happiness." The Bordeaux landlady had treated her rudely: "I care not about the honour of seeing your family, but I must be protected from all possibility of another Bordeaux *exposé*. You will recollect that I told you before I consented to keeping the marriage secret that this, and this alone, was the only sacrifice I could not willingly make for you."

There seems no doubt that Theresa began at length to realise the precarious position in which she was placed, for the same month she wrote to Father Mooney asking him to send her a certificate of her marriage, and alleging as her reason for so doing her expectation of the "arrival of a little stranger," which, in view of what had happened in May, can hardly be regarded as the true one. The priest cordially replied, enclosing the required certificate. It was in Latin, and bore that William Charles Yelverton and Maria Theresa Longworth were lawfully married by him at Rostrevor on 15th August, 1857, according to the rites of the Holy Roman Church, in presence of Richard Sloan and Elizabeth Brennan, witnesses.

Theresa's fears were well founded, for about this time Major Yelverton called upon Mrs. Stalker, the Edinburgh landlady, and presented her with a pair of candlesticks, "a present from France." "Is

it from Mrs. Yelverton?" she asked. "Pray, don't say that," said he, and told her that the lady in question was not his wife. "God bless me!" cried Mrs. Stalker. "She was a *lady*. Why did you bring a lady here and behave so to her?" He added that the lady was now in the South of France, very ill, and it was doubtful whether she would live. "You have broken the laws of God and man," said the good woman. The major laughed, remarking that he knew nothing about the laws of God, *but he knew the laws of man.*

On 25th June Theresa arrived in Leith and had an interview with Yelverton, at which he appeared to her to be in a distracted state of mind. He begged her to leave Edinburgh, as the marriage was becoming known. On the 26th the major addressed his "Poor little Tooi-tooi" for the last time. "I cannot go and see you any more just now. You must go to Glasgow as I asked you," he wrote; his brother would call and explain. That morning at Trinity Episcopal Church, the Hon. William Charles Yelverton, Major in the Royal Regiment of Artillery, was married to Emily Marianne Ashworth or Forbes, daughter of the deceased General Sir Charles Ashworth, K.C.B., and relict of the late Professor Edward Forbes of Edinburgh University, by the Very Reverend Edward Bannerman Ramsay, Dean of the Diocese of Edinburgh. Dean

Ramsay afterwards deponed that the date of the marriage had been fixed only the night before; in the circumstances it is unlikely that the service was fully choral. The episode is not included in the genial Dean's *Reminiscences*. The Hon. G. F. W. Yelverton, who acted as best man, duly waited upon Theresa on behalf of his brother, and urged her to proceed forthwith to Glasgow *en route* for New Zealand, with the view of allowing "the present storm to blow over"; but this the lady indignantly refused to do, and telegraphed instead for her brother-in-law, Mr. Bellamy. Information lodged with the Procurator-Fiscal led to the arrest of the honourable and gallant bridegroom upon a charge of bigamy, but he was liberated later, the Crown failing to prosecute.

On 7th August, 1858 Theresa raised in the Court of Session an action of declarator of marriage against the faithless major, founding on the Irish ceremony alone; this was afterwards withdrawn as not containing a full statement of her case. On 8th June, 1859, Yelverton raised against her a declarator of freedom and putting to silence; and on 13th January, 1860, Theresa replied by a new declarator of marriage on the following grounds: (1) Interchange of consent *de præsenti;* (2) promise *subsequente copula;* (3) cohabitation, and habit and repute; and (4) the religious ceremony in Ireland.

Yelverton denied that he had ever promised to marry the pursuer, or that they had interchanged mutual matrimonial consent in Scotland. He alleged that the connection had been throughout irregular, and that the Irish ceremony was merely a form to satisfy the lady's conscience. With respect to that ceremony he founded on an Act of the Irish Parliament (19 Geo. II. c. 13) whereby a marriage celebrated by a Roman Catholic priest is void if either of the parties has declared himself or herself a Protestant within twelve months thereof. The two processes were of consent conjoined and the record closed on 18th July, 1860.

Meanwhile, a civil suit brought by Theresa in England to establish the marriage having failed on a question of domicile, as the result of a friendly move Mr. Thelwall raised in the Court of Common Pleas, Ireland, an action to recover from Yelverton a sum in name of board, lodging, and necessaries supplied by him to the defendant's wife and her servant. The defendant pleaded that these were not supplied to his wife, and this was the only issue. The main purpose of the action was to allow Theresa to tell her own story in the witness-box, and to afford opportunity to cross-examine Yelverton, for by Scots law the testimony of parties to a consistorial cause was not then admissible in evidence. The trial began at Dublin before Lord Chief Jus-

tice Monahan and a special jury on 21st February, 1861. Mr. Sergeant Sullivan led for the plaintiff and the Right Hon. Abraham Brewster for the defendant. The proceedings, which occupied ten days, were marked by a passionate display of Hibernian enthusiasm, amazing to those accustomed to the dignified decorum of our Scottish courts. We are unused to the spectacle of a judge giving way repeatedly to uncontrollable emotion and warning a jury against his sympathies; of counsel assailing one another with a vituperation that drew from the Bench a gentle reminder that the Court was not a bear-garden; of an advocate urging, as a reason for a verdict, the obvious prepossessions of the Court and his hearers; of witnesses cowed or encouraged alternately by wild expressions of anger or approbation; and of an audience whose conduct would have been indecorous even in a music-hall. Theresa was in every way an admirable witness. Her beauty and charm of manner impressed the public no less than did her intellectual qualities the bar; while reporters rejoiced in her "exquisite propriety of diction" and the Titian-like tones of her hair, lawyers appreciated that her statements and explanations were clear, coherent, and unshaken by cross-examination, that she reconciled her evidence and her letters with much plausibility and tact, and that she sustained

her ordeal with consummate aplomb. Once only did she falter, when the defendant, with singular lack of taste, sat and stared at her in front of the witness-box. The odiousness of his defence, and the many improbabilities of his story, became apparent when that gentleman himself gave evidence, and the rigorous cross-examination which he underwent at the hands of Sergeant Sullivan proved him destitute of that peculiarly trans-Atlantic article, a moral sense. He stuck, however, to his line that the lady had been merely and by her own desire his mistress, and that marriage was never in question between them. The facts came out upon the proof as already narrated; the speeches and charge increased, if possible, the popular excitement; and when the jury returned an unqualified verdict for the plaintiff, the Court rang with enthusiastic and prolonged applause. We regret to read that "the members of the Bar stood up and joined heartily in the public manifestations of delight; many of them actually took off their wigs and waved them with energy." Outside the court-house Theresa's reception was little short of royal; great crowds awaited her, flags were flown, and amid the cheering of thousands her carriage was drawn to her hotel, where from a balcony she was compelled to make a brief speech of thanks before the multitude would disperse.

The jury had found that there was both a Scottish and an Irish marriage, and that the defendant was a Roman Catholic at the time thereof. What Church was privileged to include within its fold that rather black sheep is doubtful: the defendant himself said he was not a religious man; he admitted that he only attended Protestant worship when he had to do so officially with his men, and he "didn't recollect" whether, as Theresa swore, he went with her frequently to Mass. Some of his relatives were certainly Catholics. The verdict of the jury, however, could not affect the legal status of the parties, which depended upon the fiat of another tribunal.

In the Court of Session proceedings there was an exceptionally strong Bar: the Lord Advocate (Moncreiff), the Solicitor-General (Maitland), Patrick Fraser, and David B. Hope, appeared for the lady; the major being represented by Edward S. Gordon, George Young, and John Millar—counsel of eminence, who later rose to the judicial Bench. The proof in the conjoined actions, heard by Lord Ardmillan in the Outer House, consisted of the evidence and correspondence of which I have given an outline. The Lord Ordinary, having heard counsel, on 3rd July, 1862, gave judgment; his Lordship found, in Theresa's action, that she had failed to prove she was the wife of the defender, and there-

fore assoilzied him; and, in the major's, decerned against Theresa conform to the conclusions of his action—in each case with expenses. In a note his Lordship exhaustively reviewed the whole circumstances, and decided against Theresa on every point both in fact and in law. Apart from the legal aspect of the case, there were, popularly, two views of that lady's character: one regarded her as the victim of a profligate and perfidious scoundrel; the other, as adventuress ambitious of a titled alliance, and not over-scrupulous as to the means of attaining it. The Lord Ordinary took the latter. It is to be observed that his Lordship had not the advantage of seeing and hearing the parties in the box.

Theresa, of course, reclaimed; and the case was argued at great length before the First Division, then consisting of three judges, the Lord President (M'Neill), and Lords Curriehill and Deas. At the conclusion of the debate their Lordships each delivered elaborate judgments. Lords Curriehill and Deas were clearly of opinion, on the questions of marriage by *de præsenti* mutual consent and by promise *subsequente copula*, that the pursuer had made good her case. The Court was not asked to decide as to the validity of the Irish marriage, which was reserved, if necessary, for "another place," and the ground of habit and repute was abandoned in the Inner House. The Lord President, on the

other hand, held that in either of the alternative views presented the pursuer had failed. Accordingly, on 19th December, 1862, the Court found that the parties were lawfully married persons, and assoilzied Theresa from the conclusions of the major's declarator. Thus, so far, the opinions of the Scottish judges were equally divided.

Yelverton having carried the case by appeal to the House of Lords, on 6th April, 1864, it came before the Appeal Committee, namely, the Lord Chancellor (Westbury) and Lords Brougham, Wensleydale, Chelmsford, and Kingsdown. After hearing the arguments for the parties, the Lord Chancellor and Lord Brougham concurred with the majority of the judges in the Court below. Their Lordships were of opinion that there was evidence of a marriage by *de præsenti* engagement, and a *fortiori* of *sponsalia de futuro*, which, followed by *copula*, made a marriage. The other three Law Lords held that there was no evidence of a marriage constituted in Scotland *per verba de præsenti*, or by written acknowledgment; and that there was no evidence of a promise of marriage made in writing in Scotland to support an action of declarator on the subsequent cohabitation of the parties. The interlocutor of the First Division of the Court of Session was therefore reversed, and that of the Lord Ordinary affirmed. Thus by

one vote in nine the Hon. Mrs. Yelverton became Miss Longworth again, and lost much besides the coronet of Avonmore. It was a near thing for the pseudo-bigamist.

When the Court of Session met in November, Major Yelverton presented to the First Division a petition, praying the Court to apply the judgment of the House of Lords. At the same time a note was lodged for Theresa, craving leave to put in a condescendence of *res noviter*. The new facts proposed to be proved were as follows: The Hon. Frederick Yelverton died in February, 1860. To him, during his illness, his brother the major admitted that he had married Miss Longworth in Scotland, and renewed his marriage vows in Ireland. This acknowledgment was made in presence of a sick-nurse, Sarah Mallins, who herself died in January, 1862. Before her death she informed the Rev. Mr. Campbell, rector of Kilderry, who in August, 1864, communicated the fact to the petitioner. It was further alleged that Yelverton had made similar admissions to his father, and to other relatives and friends of his family, whom it was now proposed to examine as witnesses. After discussion, on 10th December, 1864, the Division unanimously refused the note and applied the judgment of the House of Lords. The Lord Advocate then tendered on behalf of his client a minute of

reference of the whole cause to the oath of the defender, such reference being competent, with the authority of the Court, at any time before extract. Four grounds of exception were pleaded on behalf of the defender: (1) That to sustain the reference might compel him to depone *in suam turpitudinem* by admitting the crime of bigamy; (2) that such reference was incompetent after judgment by the House of Lords; (3) that it would prejudice the interest of third parties, *i.e.*, Mrs. Forbes and her issue; (4) and that, even if competent, the Court in their discretion should refuse it. After argument, the Division, Lord Deas dissenting, refused to sustain the proposed reference to oath. In the course of a long and learned opinion his Lordship gave good reasons for taking a different view from his brethren. So Theresa lost the last trick, after all, and the major won the rubber; but the honours remained with the lady.

When so great luminaries have shed upon this juristic puzzle such disparate and distracting lights, it were presumptuous to employ the mere gleam of private judgment; but at least one may be permitted to form an opinion on the merits. The affection of Theresa, it seems to me, was from the first honest, though imprudent; Yelverton, too, was in love, but with a difference. It is difficult to accept his statement that his intentions were through-

out dishonourable; more probably the lady's romantic character and the unconventional course of their loves tempted him, a man of strong passions and unused to self-restraint, to propose an irregular alliance. When, however, he found her virtuous resolve impregnable, he grudgingly agreed to her terms. It is unlikely that so wary a man of the world would have run the risk of going through the religious ceremony in Ireland, if, as he alleges, he had already effected his purpose; nor, if he deemed that ceremony a farce, would he have given the lady his name and allowed her the apparent status of a wife. With reference to the distortion of certain passages in her letters, Theresa, in her preface to *The Yelverton Correspondence*, shrewdly observes: "Shakespere, could he arise and read his commentators, would not be more astonished than I have been upon learning the interpretations put upon what I wrote. The Frenchman's translation of the witches' salute, 'Hail, all hail!'—*grêle toujour, grêle*, because it always snows in Scotland—was a slight mistake in comparison with the assumption that two persons, deeply attached to each other, met in a church, knelt down at the altar whilst the officiating minister performed the marriage service—for the express and absolute purpose of *not* becoming husband and wife." The major's avowal notwithstanding, I incline to think him less

black than, for his own purposes, he painted himself, and conceive his repudiation of the marriage to have been an afterthought, suggested by his pecuniary embarrassments, the sedative effect of ten months' matrimony, the prospect of making a better match, and the knowledge that his bonds might, after all, be breakable. It can scarcely be doubted from the later correspondence that the lady at least believed herself married, and that Yelverton thought himself bound to her by a tie that was not one of dishonour. His acquaintance with the laws of man, of which he boasted to Mrs. Stalker, was probably upon this point recent.

After the Irish trial Major Yelverton was suspended from all military duties; in the following month he was placed on half-pay and removed from the effective list of the Royal Regiment of Artillery. In 1870 he succeeded his father as fourth Viscount Avonmore, and died at Biarritz on 1st April, 1883.

Even her enemies must have pitied Theresa, bereft at once of fortune and fair name. But she lacked neither sympathy nor friends; her means having been engulfed in the long and costly litigation, a subscription on her behalf was raised in Manchester, her native city. To increase her slender resources she gave a series of readings in various provincial towns, and in 1866 she read for the first time in London at the Hanover Square Rooms. In

the following year she went to the United States. Her remaining years were spent in travel, in the course of which she visited many lands, her wanderings being, as she tells us, "guided rather by the dictates of my fancy than by the instruction of Bradshaw or the experience of Murray," and published accounts of her adventures, both matrimonial and geographical.

As might have been expected from her letters, her literary output was considerable. In addition to editing the famous *Yelverton Correspondence* (1863), she told the story of her life in *Martyrs to Circumstance* (1861), and *A Woman's Trials* (1867); then followed *Zanita: A Tale of the Yo-Semite* (1872), *Teresina Peregrina, or Fifty Thousand Miles of Travel Round the World* (1874), and *Teresina in America* (1875). Despite the law, she never struck her flag, and her books bore upon their respective title pages the name of Theresa Yelverton, and after 1870, of Viscountess Avonmore. Her passionate pilgrimage was completed at Pietermaritzburg, Natal, on 13th September, 1881.

This romance of reality attracted other pens; and in *Gentle Blood, or the Secret Marriage* (1861), by J. R. O'Flanagan, and *A Wife and Not a Wife* (1867), by Cyrus Redding, the curious will find set forth, under a thin disguise of fiction, the moving tale of Theresa's tribulations.

THE DUNECHT MYSTERY

But who knows the fate of his bones, or how often he is to be buried? Who hath the oracle of his ashes, or whither they are to be scattered?

—"HYDRIOTAPHIA,"

SIR THOMAS BROWNE.

THE BODY-SNATCHER IS A TYPE OF FELON happily obsolete in our criminal practice, save for one signal instance, since the passing of the Anatomy Act in 1832. Prior to the introduction of Warburton's Bill, Scotland had paid a high price for the pre-eminence of her medical schools in the

outraged feelings of the living and the violated sepulchres of the dead. The revelation of the hideous traffic driven by Burke and Hare, that hellish partnership whose transactions horrified mankind, at length roused the nation from its apathy. Science, wilfully blind or culpably incompetent, had seen nothing amiss, and as the doctors either would or could give no aid in securing the conviction of the murderers, Justice was forced to loose her hold on the more fiendish of the pair, lest both miscreants should escape unpunished. Legislation followed, to render needless and unremunerative for the future a form of sacrilege which had made possible the perpetration of such fearful crimes. The methods of the professional resurrectionist became but an unclean memory, and only the ugly iron mortsafes in our older graveyards served as reminders of his power in the past.

When, therefore, on 3rd December, 1881, the readers of the daily journals learned, some twelve months after the death and burial of the late Earl of Crawford and Balcarres, that his remains had been stolen from the family vault at Dunecht House, near Aberdeen, in circumstances inexplicable and mysterious, the excitement throughout the country was intense. A similar outrage had startled the civilised world in 1878, when the body of Mr. Stewart, an American millionaire, was

carried off and held to ransom, and, notwithstanding a reward of 25,000 dollars offered by his widow, was never recovered;[1] but with this exception such a crime had been unheard of for over half a century.

The dead earl had been in his day a notable nobleman. Born in 1812, he succeeded to the title in 1869 as eighth Earl of Balcarres and twenty-fifth Earl of Crawford. He was a man of many tastes and talents; much of his time and money was devoted to astronomical research, and he was a capable theologian as well as an erudite antiquarian and genealogist. He published much, and in his *Lives of the Lindsays* has left an exhaustive history of his ancient house, while the great library at Haigh Hall, near Wigan, his Lancashire seat, is a monument to his industry and learning. The outrage offered to the mortal remains of a man of such illustrious lineage and of a personality so distinguished was calculated to shock the least susceptible of his fellow countrymen.

In the winter of 1879 the Earl of Crawford, whose health had begun to fail, visited Egypt and afterwards Italy, where he died at Florence on 13th December, 1880. His body, which for removal to his

[1]This view is also held in this country. Representatives of the Stewarts, however, paid a ransom for a body, which was buried as that of Mr. Stewart in Garden City Cathedral. See Herbert Asbury's *The Gangs of New York*, p. 224.—E. P.

native land was embalmed by a Florentine chemist skilled in the art, was placed within three coffins, the inner one being of soft Italian wood, the middle one of lead, and the outer one of polished oak, elaborately carved and mounted with fittings of chased silver. These three coffins were deposited within a huge walnut shell, on the top of which was a cross carved in high relief, the weight of the whole amounting to nearly half a ton. The conveyance of the remains across the Alps was attended with great difficulty, but under the care of a trusted family servant they reached France in safety. A special steamer was chartered to convey the body to London, and in crossing the Channel she encountered so heavy a gale that the coffin had to be lashed to the deck. The removal to Aberdeen on 24th December was more easily effected, but there an unexpected obstacle arose. No hearse large enough to contain the coffin was procurable, and the outer shell had to be removed. It was afterwards deposited in the crypt beside the three coffins in which the body was encased. The last stage of its long journey, that from Aberdeen to Dunecht, was undertaken in one of the most violent snowstorms ever experienced in Scotland, and it is recorded that the hearse, when returning to Aberdeen, was snowed up by the wayside for several days. These inauspicious happenings, how-

ever, were but the prelude to a misadventure yet more remarkable.

The house of Dunecht, one of the finest mansions in Aberdeenshire, had been for some years undergoing a complete restoration. The alterations included the erection of a private chapel attached to the house, with a mortuary chapel of white marble in connection, beneath which was a mausoleum intended to supersede the old family vault of the Lindsays at Wigan. But recently completed, the mortuary chapel had not been consecrated at the time of the earl's death, so that rite was duly performed by the Bishop of Aberdeen before the interment, and on 29th December, 1880, the first tenant of the new mausoleum solemnly entered into possession. The crypt, which is built throughout of massive granite blocks, is about twenty-one feet long by eleven feet wide, in the centre an octagonal pillar supports the groined roof, and the walls on each side are occupied by catacombs arranged in tiers capable of containing twenty-five coffins. Access to the vault is obtained solely by means of a short flight of eight steps descending from the level of the ground outside the mortuary chapel. When the remains of the earl had been laid in what was believed to be their last resting-place the steps and stairway were covered by four immense slabs of Caithness granite, the interstices

of which were filled with lime. Five months later earth was spread over the flags to a considerable depth, in which grass was sown and shrubs and flowers were planted, and the whole was enclosed with an iron railing. In such circumstances the dead might well have been expected to rest in peace.

On Sunday, 29th May, 1881, exactly five months after the interment of Lord Crawford's body, the housekeeper at Dunecht, coming home from church through the grounds, perceived a pleasant aromatic smell issuing from the vault. Next day the gardener also noticed the odour, which he attributed to the *arbor vitæ* used as a background to the flowers of the numerous wreaths left upon the coffin. He thought that it came through the ventilator, but though he had been in the habit of passing the vault daily, he had never observed the smell before. It was afterwards remarked by several other persons about the estate, and masons were accordingly employed to examine the condition of the flagstones covering the entrance stairway, which, owing to the unusual severity of the weather, had not yet been cemented and planted over. They observed a crevice between two of the outside flags which they thought had been caused by frost. This was filled up again with lime, cement was placed round and over the stones, and the sweet smell was noticed no more for the time.

Immediately thereafter, on 2nd or 3rd June, the flags were covered with earth, grass was sown, and the railing erected, as already described.

On 8th September following a curious incident occurred which was not made public until later. Mr. William Yeats, advocate, Aberdeen, commissioner on the Dunecht estates and the family's local solicitor, received that day an anonymous letter in the following terms:

> Sir,—The remains of the late Earl of Crawford are not beneath the chaple at Dunecht as you believe, but were removed hence last spring, and the smell of decayed flowers ascending from the vault since that time will, on investigation, be found to proceed from another cause than flowers.
>
> Nabob.

On receipt of this extraordinary communication, which bore the Aberdeen postmark, Mr. Yeats at once saw the builder who had constructed the vault, and from what he learned from him, came to the conclusion that the letter was a wicked hoax. He therefore said nothing to the family about the letter, but laid it aside as of no importance.

The works in connection with the mansion-house were still in progress, and on the morning of Thursday, 1st December, one of the labourers, passing the entrance to the vault between seven

and eight o'clock, observed that the turf at the mouth of the tomb had been displaced. He at once told the overseer of his discovery, the earl's commissioner was informed, and the police were summoned from Aberdeen. When they arrived in the forenoon it was decided to enter and examine the vault. The soil was found to have been removed from above the flagstone directly over the upper steps and farthest from the chapel wall. The stone itself, a huge block six feet by four feet in size, and weighing 15 cwt., had been raised about eighteen inches on one side, and pieces of wood inserted to keep it in position. Within the railing round the entrance were two iron shovels and a pick, which, as later appeared, belonged to the workmen, and had been left in an adjacent lime-shed on the previous night. Another slab was removed, and the party descended to the crypt. On the stairs they found three iron bars and two planks. Though now anticipating the worst, they were horrified at the sight which awaited them.

The floor of the vault was strewn with planks and sawdust, the three coffins, which at the interment had been placed in one of the niches in the middle tier at the left-hand side of the crypt, were lying open and empty side by side in the middle of the floor, and the body of the dead earl had disappeared. The lid of the outer coffin had been un-

screwed in a tradesmanlike manner, after which it had been turned over on its side and the leaden coffin rolled out and cut open. The inner coffin had then been opened with some sharp instrument sufficiently to admit of the body being drawn out. Its silver handles, plates, and mountings were untouched. From the scented sawdust with which the coffin had been filled came the peculiar aromatic odour that had been remarked in the previous May. The fact that the sawdust was mildewed and the leaden shell, where cut, oxidised, indicated that a considerable time had elapsed since the commission of the outrage.

A grim satire, this, on the vanity of "Monuments and Mechanical Preservations"!

An inquiry into the mysterious circumstances of the case was at once commenced by the procurator-fiscal, the official by whom the initial steps of a criminal investigation in Scotland are conducted. The house and policies were guarded by the police, and all persons connected with the estate were closely examined. The new earl, who had been absent from home at the time of the discovery, was at once informed of what had occurred, and returned forthwith to Dunecht. An exhaustive search of the surrounding district was instituted, and was continued diligently for a fortnight, but without result. It was interrupted by a severe

snowstorm which began at that date, and as the snow remained upon the ground until well on into the following spring, the search had to be abandoned for the time. A sensational feature of these attempts to discover the body was the employment of the celebrated bloodhound "Morgan," which in 1876 had successfully run to earth Fish, the Blackburn murderer. Owing, however, to persistent frost the experiment proved unsuccessful.

Weeks passed, and the public excitement and curiosity continued unabated and unappeased. The inquiry was conducted in private, the authorities would give no information, and the gallant band of reporters who attempted to storm the house of Dunecht were repulsed with heavy loss—of copy. In the absence of authentic news, all sorts of rumours circulated in the press. It was said that the outrage had been committed the day before the discovery of the rifled tomb, under cloud of a tempestuous night, by Florentine desperadoes who had tracked the corpse from Italy. Alternatively, the body had never been in the vault at all, having been abstracted before the coffin left Florence. According to other accounts, the deed had been done by certain Italian painters employed in decorating the interior of the mansion-house, or by some medical students from Aberdeen for professional purposes. Prints of many feet were said

to have been found in the sawdust on the floor of the vault and in the earth at the entrance, indicating that several persons had been concerned in the offence. Suspicious characters of varied aspect and nationality had been seen lurking about Dunecht, or pervading the neighbourhood in dubious and elusive dogcarts. Finally, it was confidently reported that the body of the late earl had been taken to Italy in an Italian yacht, the *Speranza*, and was then in Florence.

But those better informed knew from the condition of the vault that the outrage had been perpetrated long before the date on which the violation of the tomb was discovered, while the fact that a number of strangers, perambulating a quiet countryside with an embalmed corpse, would be calculated to attract attention, led to the belief that the body had been abstracted by persons familiar with the locality, and was concealed within a short distance of the house.

Meanwhile, on 4th December the procurator-fiscal published in the local newspapers an advertisement earnestly requesting anyone who during that year had observed anything having reference to the removal of the remains, to communicate with him or with the Chief Constable of Aberdeen. Mr. Yeats, the commissioner, called to mind his mysterious correspondent of the previous

September, and an advertisement was inserted on 9th December as follows: "NABOB.—Please communicate at once." Any information regarding the affair was to be sent to Mr. Alsop, the earl's London solicitor, who was then at Dunecht. On the 13th a further advertisement appeared: "Fifty pounds reward will be paid to the writer of the anonymous letter in September last addressed to a person in King Street, Aberdeen, on his furnishing full particulars." Although neither the earnest request of the fiscal nor the offer of the reward were sufficient to tempt "Nabob" to discard his anonymity, that retiring individual was stimulated by these announcements once more to take up his pen, and on 23rd December Mr. Alsop received from him in London a letter in the following terms:

SIR,

The late Earl of Crawford.

The body is still in Aberdeenshire, and I can put you in possession of the same as soon as you bring one or more of the desperados who stole it to justice, so that I may know with whom I have to deal. I have no wish to be assinated by rusarectionests, nor suspected by the public of being an accomplice in such dastardly work, which I most assuredly would be unless the guilty party are brought to jus-

tice. Had Mr. Yeats acted on the hint I gave him last Sept., he might have found the remains as though by axedand and hunted up the robers at lsure, but that chance is lost, so I hope you will find your men and make it safe and prudent for me to find what you want.

P.S.—Should they find out thad an outsider knows their secret it may be removed to another place.

NABOB.

On the 30th a notice was published, both in the press and by means of placards and hand-bills, headed "£600 REWARD," which stated that £100 would be paid by Her Majesty's Government and £500 by Messrs. Alsop, Mann & Co., Lord Crawford's London solicitors, to any person unconnected with the police force who should first give such information as would lead to the discovery and conviction of the perpetrators of the offence, and that the Home Secretary would advise the pardon of any accomplice, not being the person who actually committed the offence, who should first give such information as would lead to a like result. Among the bushels of epistolary chaff produced by these advertisements, the authorities with much acumen reckoned the "Nabob" letters alone as genuine grain, and to the discovery of the identity of the writer their efforts were now directed.

As months elapsed without any fresh news, public interest in the case began to wane, and the impression became general that the Dunecht mystery would never be solved; but the police had not relaxed their efforts. On 27th February, 1882, it was revived by the announcement that two arrests had been made in connection with the affair. The suspected persons were Thomas Kirkwood, a joiner for many years in the employment of the Lindsay family, and John Philip, a shoemaker, who had been at one time drill instructor of the Echt Volunteer Corps, both of whom were brought before Sheriff Comrie Thomson at Aberdeen, and were remanded for a week. After being judicially examined, both men were discharged. The reason of Philip's arrest was not disclosed; he was later adduced as a witness for the prosecution.

Nothing further was heard of the case for five months, but on 17th July the police, acting upon information received, the nature of which we shall presently learn, apprehended a man named Charles Soutar, forty-two years of age, who followed the occupation of a vermin killer, and resided in Schoolhill, Aberdeen. He had been employed for five or six years as a ratcatcher at Dunecht, but on account of his poaching proclivities had been dismissed some three years before the earl's death.

The same day the prisoner was judicially examined

by Sheriff Comrie Thomson, and emitted a declaration. He admitted that the two letters signed "Nabob" were both written and posted by him. On being interrogated, "What do you know of the removal of the late Earl of Crawford's body?" he told the following remarkable tale:

One night about the end of April or the beginning of May, 1881, after eleven o'clock, he was poaching with a net in the Crow Wood, near Dunecht House. On hearing a rustle in the brushwood he thought the keepers were trying to surround him, so he took to his heels, making for the thickest part of the wood. After running about twenty yards, he was tripped up by someone and thrown on his back to the ground, where he was held down by two men, "young-like chaps, of middle size." Their faces were "black," and they wore wincey shirts, but had on neither hats nor coats. They spoke with an Aberdeenshire accent, and seemed common men. They were presently joined by two others, tall men, also hatless and coatless, in white shirt sleeves. These seemed to be gentlemen, and spoke like educated men. The taller of the two appeared to be the leader of the party. Both wore masks. One of them presented a large plated revolver at his breast, and said to one of the men holding him, "Remove your arm, and I will settle him." The other replied, "Hold on; there's more of them."

The man who held him rose, and said to the one with the pistol, "It's all right; it's the ratcatcher; he's poaching." Whereupon the speaker conversed in whispers apart with the two tall men. On their return they told the man who was still holding him to let him up, which was done. The man with the pistol then examined his net, and asked what he was doing there, and whether he was alone? He answered that he was "looking for a beast," and was alone, upon which the tall man remarked that it was well for him, as if he had been a spy he would not have seen the light of another day, adding, "Remember what I am going to tell you; you're known to our party, and if you breathe a syllable of what you have seen, I will have your life if you're on the face of the earth." He was then released and told to leave the wood by the way he came. After "hunting for an hour or two" he returned at daybreak to the spot. The four masked men were gone, but looking about, he noticed "a heap of rubbish where they had concealed something." On opening this up he saw a blanket, which he lifted, disclosing the dead body of a man, whom he thought at the time had been murdered. He looked at the face, and covered the body up again as he had found it. There was a strong smell like benzoline, from which he inferred that an attempt had been made to destroy the corpse with

chemicals. The same smell stuck to his hands for half a day afterwards. He returned on foot to Aberdeen by the turnpike road.

He further declared that in July, 1881, on the day of the local cattle show, he had a conversation at Aberdeen with a plasterer named Cowe, who had been employed at Dunecht. Cowe mentioned that the vault in which the old lord was buried had been closed up, because of "the strange, sweet-like smell" that came from it. On his asking what it resembled, Cowe said it was like decaying flowers, or wine, or benzoline. It then occurred to him that such was the very smell he had perceived on the body in the woods; so a few days afterwards he returned to the spot, and found that a mark he had placed there had not been removed.

In answer to a question by the Sheriff, the prisoner declined to take the police to the place or so to describe it that they might find it for themselves, remarking, "I'll rather wait until you get them that took the body; it will be safer for me then."

In consequence of the clue thus obtained, the search was renewed with fresh vigour, and some twenty keepers and constables, provided with sharp-pointed iron probes to test the nature of any suspected spot, began to scour the wood around the mansion-house. But for the narrowing of its area the search would have been much more hopeless

than the earlier one in December, for the ground, which was then bare, was now covered by a thick growth of vegetation, and the chance of discovering the grave would have been small indeed. About mid-day on Tuesday, 18th July, after some eight hours' beating of the wood, as the party were searching the course of an old ditch, the probe rebounded. There was no visible indication of the ground having been disturbed, and the soil at that point was as firm as in any other part of the ditch. A spade was obtained, the earth dug up, and there, at the bottom of the old ditch, about a foot below the surface, lay, wrapped in a blanket, the missing body of the earl. The place was some five hundred yards from the house, close by a gravel-pit.

Before its removal from the grave, the body was inspected by Dr. Ogston, Aberdeen, who prepared reports of its position when found and of its condition when subsequently examined by him. From the state of the wrappings and of the surrounding soil, he formed the opinion that the body, which had suffered no injury, had been buried for a considerable time, and had not since been disturbed. The face was quite recognisable.

The remains of the late earl were in due course removed to Haigh Hall, and were afterwards reinterred in the family vault beneath the Lindsay Chapel, in the parish church of Wigan.

On 21st July the Glasgow police arrested in connection with the case a man named James Collier, who had been a sawyer on the Dunecht estate and had recently left the district. He was, however, liberated in a few days, and, like Philip, appeared later as a witness at the trial.

On 23rd July the prisoner was again brought before Sheriff Comrie Thomson at Aberdeen for further examination, and was informed that Lord Crawford's body had now been found, whereupon he remarked, "I am very glad to hear it; they did not get it through me, at all events." He still declared that he was not concerned either in its abstraction or concealment. Upon the application of the fiscal the examination was then adjourned to Dunecht, and the prisoner was taken to the empty grave in the wood. He was asked if that was the place where he had seen the body of a dead man, and replied, "I cannot say; I am not acquainted with this part of the woods." Asked further if that was the wood referred to in his first declaration, he declined to answer any more questions on the subject. He added that he wrote the first "Nabob" letter for the purpose of unburdening his mind and giving a hint which might be acted on, that he had nothing to do with the lifting of the slab in the end of the previous November, and that he had not been near Dunecht since July, 1881. He further de-

clared that when he found the body there were five or six inches of earth over it, which he removed with his hands. It was not raining that night, but very cloudy.

The prisoner was then taken to the house of Dunecht, and being shown the earl's body and asked if it was that which he had previously seen, he declared, "It bears some resemblance to the face of the body I saw in the wood." He recognised the aromatic odour. This concluded the judicial examination of the prisoner.

On 24th July a petition was presented to the Sheriff for Soutar's liberation on bail, under an Act of 1701 to the effect that all crimes not entailing capital punishment should be bailable at the amount of 300 merks, equivalent to £60 sterling. The Sheriff found that the offence charged was bailable, and granted warrant for the prisoner's liberation, on caution to that extent being found for his reappearance. Next day, however, the friends of the prisoner learned that if the bail was forthcoming the authorities were prepared to rearrest him upon a fresh charge on which bail would not be allowed, so the matter went no further, and the prisoner remained in gaol to await his trial.

On Monday, 23rd October, 1882, Charles Soutar was placed at the bar of the High Court of Justiciary, Edinburgh, indicted and accused of the crime

of violating the sepulchres of the dead and the raising and carrying away dead bodies out of their graves. Lord Craighill presided. The prosecution was conducted by the Solicitor-General (Mr. Alexander Asher) and Mr. Æneas J. G. Mackay, Advocate-Depute, the prisoner being represented by the Dean of Faculty (Sir J. H. A. Macdonald, the present Lord Justice-Clerk), Mr. (now Lord) Mackenzie, and Mr. William Hay. The only official shorthand notes of the trial were taken by Mr. Crabb Watt, K.C., who had not then been admitted to the bar. These notes were extended verbatim, and are now in the possession of the Crawford family. The indictment bore that the accused, either by himself or acting in concert with some person or persons to the prosecutor unknown, on an occasion or occasions between 1st April and 8th September, 1881, broke into the vault, forcibly removed from the coffins the dead body of Lord Crawford, and carried away the same. No objection was taken to the relevancy, and the pannel pleaded not guilty.

The circumstances attending the burial of the earl on 29th December, 1880, the first perception of the odour on 29th May, and the lifting of the stone on 1st December, 1881, the arrest and examination of Soutar on 17th July, 1882, and the discovery of the body on the following day, all as before

narrated, were duly established by various witnesses. It remains to be told upon what evidence the Crown relied for proving the prisoner's connection with the crime.

James Collier, who had been a sawyer at Echt for thirty years, until he left the district in July of that year, deponed that he knew the prisoner by sight. On Friday, 27th May, 1881, he travelled from Aberdeen by the Cluny coach, which passes the Broadstrake Inn at Waterton of Echt, about a mile from Dunecht House. The prisoner was also in the coach. The witness's attention was attracted by the fact that he knew that Soutar "was newly out of prison for another offence," the nature of which does not appear from the proceedings at the trial. It was, however, stated in the press at the time that Soutar, in 1878, had been sentenced to eighteen months' imprisonment with hard labour for participation in a poaching affray, wherein a police sergeant was fatally injured. The coach stopped at the inn, where Collier pointed out the prisoner to a man named Coutts. When Collier got down, half a mile from Dunecht, the prisoner was still on the coach. Coutts corroborated. He had seen the prisoner get off the coach at the inn, but did not notice whether he proceeded by it further. Mrs. Leith, the innkeeper, who knew the prisoner personally,

said that he arrived by the coach that afternoon at six o'clock. He walked up the road towards the village of Echt about the time that the coach resumed its journey. She saw no more of him that night. Her daughter Barbara gave similar evidence.

Dunecht House lies midway between the hamlet of Waterton of Echt and Echt village, and the evidence of these four witnesses proved the presence of the prisoner in the neighbourhood on the Friday before the Sunday on which the odour was first noticed at the vault.

James Cowe, plasterer, Aberdeen, said he had known the prisoner for three or four years. He did not see him on 21st or 22nd July, 1881, during the cattle show in Aberdeen, or about that time. He did not remember ever speaking to him of the removal of Lord Crawford's body, or as to the smell from the vault, nor did he say to him that the smell was like decaying flowers, wine, or benzoline. The last word he never mentioned to him in his life. The evidence of this witness contradicted the statement made by the prisoner in his declaration that he first heard of the matter from Cowe. Mrs. Legatt, a daughter of Mrs. Leith, said that the prisoner arrived at Broadstrake Inn by the Aberdeen coach one afternoon in July or August, 1881, when her mother was from home. After having some refresh-

ment he left on foot, going in the direction of Dunecht. There is no evidence as to what he was doing in the neighbourhood on this occasion.

William Lawrie, farmer, Echt, stated that he was introduced to the prisoner by a gardener of Dunecht at Mrs. Livingstone's inn at Echt on 20th September, 1881. They had a drink together. The prisoner asked him if any person had disappeared mysteriously thereabouts, and on his replying in the negative, said, "Ay, but there was," adding that he had happened to be on the estate of Dunecht one night, and came across some men with a body. The witness understood the prisoner to mean that a murder had been committed. At the time he thought the story "a parcel of lies"—the jury later arrived at the same conclusion—and paid it no attention. Elizabeth Mitchell, a servant at the inn, deponed that she overheard part of the above conversation. She mentioned the matter to her mistress, who advised her to say nothing about it. There was then no suspicion of any interference with the vault.

John Philip, shoemaker, Aberdeen, said that he had been apprehended in connection with the affair in the end of February, and was liberated on 4th March, 1882. Shortly thereafter the prisoner, whom he did not know except "by reputation," accosted him in Aberdeen. The prisoner intro-

duced himself thus: "You must know me, I am Soutar, the ratcatcher, who was at Dunecht when you were drill instructor there," to which Philip made the euphuistic reply, "I remember distinctly a gentleman of your profession having been employed at the policies, although I never saw you." "I added," continued the courteous shoemaker, "that I believed he was the party who should have been where I had come from—meaning the prison." Soutar, so far from taking offence at this observation, proposed adjourning for refreshment. The object of this hospitable offer was to find out if Philip, on his judicial examination, had said anything about him (Soutar). He received the disconcerting answer that Philip, "from information he had obtained," had felt obliged to tell the Sheriff that Soutar was the perpetrator of the outrage. Lord Craighill, in charging the jury, commented on the singular fact that no question was put to this witness from either side of the bar to ascertain upon what knowledge he had made such a statement.

George Machray, who had been gamekeeper at Urie, Stonehaven, when the prisoner was employed as a ratcatcher there, stated that on two occasions prior to the month of March, 1882, Soutar said to him that he could tell where Lord Crawford's body was hidden. The witness, who had previously heard of the outrage, "thought nothing about it." On

Friday, 14th July, 1882, the prisoner invited him into a public-house in Aberdeen, and requested him to inform one Mr. Cassells, who was then making inquiries on behalf of the Crawford family, that he (Soutar) "could tell where the body was on two conditions, namely, that they would find out the persons who took the body, and give protection to him." He said nothing about a pardon. At that time the reward was advertised in the newspapers. Machray failed to find Cassells, and next day the prisoner again asked him to deliver the message. He tried to do so, without success. On Sunday, the 16th, the prisoner for the third time asked him to see Cassells, and he made another attempt, with the like results. Perceiving that it was useless to contend further with fate, Machray then gave the information to the police which led to Soutar's arrest.

A notable, if not unique, feature of the trial was the fact that none of the witnesses for the prosecution were cross-examined by counsel for the defence, only a single question being put to Machray by the Dean of Faculty, to the effect that the prisoner had said she was "threatened very hard by the men in the wood."

The case for the Crown closed with the reading of the prisoner's declarations. No witnesses were adduced for the defence, and the Solicitor-General

rose to address the jury. He submitted that the character of the crime precluded the possibility of presenting direct evidence, unless through the confession of an accomplice. The facts and circumstances of the case all pointed conclusively to the prisoner as at least one of the persons guilty. The outrage was unquestionably committed by someone acquainted with the locality and the circumstances of the family, with the motive of obtaining a ransom for recovery of the body. The prisoner lived in Aberdeen, and knew Dunecht well. The winter of 1880–1881 was a very severe one—there was snow on the ground till late in the spring—and, in order to avoid discovery, the attempt had to be delayed, as indicated by the evidence, till about the end of May. There could now be no doubt that the peculiar odour first discovered on Sunday, the 29th, was connected with the opening of the vault on the 27th or 28th May. The crevice between the flagstones was observed by the masons on the morning of Monday, the 30th. On Friday, the 27th, the prisoner was proved to have gone by the coach from Aberdeen to Waterton of Echt, where he arrived at 6 P. M. He was afterwards seen to go along the road towards Dunecht, and no explanation was offered as to how he spent that night. The cause of the odour was misunderstood, the flags were cemented, covered with earth, and sown with grass,

and all trace of the outrage was in a fair way of being obliterated. But the hope of reward depended on its discovery. The prisoner returned to Waterton in July or August, and again there was no explanation of what he was doing in the neighbourhood. No doubt he visited the vault and found that the grass was growing over the entrance, so that accidental discovery was becoming daily more impossible. Therefore, on 8th September, he wrote and sent the first "Nabob" letter, not to the police, to whom he would naturally have looked for protection, but to Mr. Yeats, the agent for the Crawford family, as the source of ransom or reward. Mr. Yeats paid no attention to the letter, and the prisoner then took a bolder step. He returned to Echt, and on 20th September, in Livingstone's inn, told Lawrie that a murdered man was buried in the woods of Dunecht—a hint intended to spread the belief in the neighbourhood that something had occurred, which he hoped would lead to inquiry. But, for his own protection, he made his information too vague, and a more definite step had to be taken for the purpose of attracting attention to the matter. On 30th November one of the flagstones covering the entrance to the vault was displaced. The outrage was at length detected; the body was searched for without success, advertisements were published, and finally a ransom was offered and a

pardon promised, but under the, for him, unfortunate condition that the informant must not be the person who committed the offence. In view of this he wrote the second "Nabob" letter to Mr. Alsop, Lord Crawford's agent in London. Again, he did not go to the police for protection, as would have been the natural course if his story were true, but to those who would be the source of a reward. Mr. Alsop having taken no notice of his letter, he attempted to put himself in communication, through his friend Machray, with Mr. Cassells, who, as representative of the Crawford family, was making inquiries at Aberdeen. Again he failed. Cassells was not at home, and Machray informed the police. The declarations emitted by the prisoner after his arrest were altogether incredible, but they at least showed that he was in the wood when the body was buried. The story he told was most cunning and highly dramatic, but was it natural that the four men, surprised in those circumstances, should seize and detain him, instead of allowing him to escape? The date assigned by the prisoner for the occurrence was clearly false. His statement that he only discovered on 21st July, 1881, from his conversation with Cowe, that the body he had seen was that of Lord Crawford was also false. Cowe denied that any such conversation ever took place. How, then, could the prisoner know that the body

was Lord Crawford's except from guilty participation in the commission of the crime? When he met Lawrie at Livingstone's inn on 20th September, he knew whose body it was, although at that time no one else was aware of the violation of the tomb. Yet he represented the body to Lawrie as that of a murdered man. In conclusion, the Solicitor-General submitted that the admissions of the prisoner, taken along with the rest of the evidence, clearly established that the mystery had at last been solved, and that the prisoner at the bar was one of the persons who perpetrated this outrageous crime.

The Dean of Faculty then addressed the jury for the defence. It was, he said, admitted by the prosecution that this crime could not have been committed by the prisoner alone, and therefore the mystery was only half solved. The prisoner's presence in the neighbourhood on 27th May, 1881, was sufficiently explained by the fact that he was a notorious poacher, and had been dismissed from service on this very property on that account. There was no secrecy in what he did; he travelled in a crowded coach in broad daylight, and left it at the inn, not the nearest point to Dunecht. The assumption of the Crown that the crime had been committed that night was not warranted by the evidence. The odour perceived on 29th May, two days afterwards, might, so far as the evidence went,

just as well have proceeded from the *arbor vitæ* as from the opened coffin, and might have existed for weeks before it was noticed. It was also a far-fetched argument to say that because the prisoner had endeavoured to spread the report that a man had been murdered and his body buried in the woods, he then knew that it was the body of the earl. His statement that he never knew until his interview with Cowe was not contradicted by that witness, whose evidence amounted at most to *non memini*. The story told by the prisoner in his declaration was quite consistent with all that he had previously said. If a reward were what the perpetrators had in view, it was likely enough that they should seize the prisoner and bind him to secrecy, because his knowledge placed him in a position to obtain the reward and put them in danger of being punished. The prisoner wished to get the reward, and with that object he communicated with those acting for the Crawford family. If he were guilty it was strange that he should make the conditions, first, that the true perpetrators should be apprehended, and second, that he himself should be protected, for he knew from the advertisements that no protection would be given to a principal. If the perpetrators were arrested he would be quite safe, and the fact that he applied to the family agents instead of to the police was no reason for assuming

his guilt. If he were not a principal his position was quite intelligible, and the stipulations he made were those of an innocent man. This prosecution was a highly sensational case based upon a number of small points, which, if carefully examined, did not cohere, and it was therefore the duty of the jury to discharge the prisoner.

At the conclusion of the learned Dean's address the proceedings were adjourned till the following day.

At half-past ten o'clock on Tuesday, 24th October, Lord Craighill began his charge to the jury. His lordship at the outset referred to the unfamiliar nature of the crime charged. In former times, he said, bodies had been raised in order to be sold for dissection, but nothing of that kind had occurred for the last half century. There were in this case only two conceivable motives, either to wreak vengeance upon the family of the deceased or to obtain from them a ransom for discovery of the abstracted body. There was here no suggestion of any ill-will towards the family, and the perpetrators were therefore actuated by the hope of reward, yet the offenders must secure themselves from punishment. All the acts of the prisoner from first to last were characterised by an attempt to realise this motive. The competency of the evidence led in support of the charge was not disputed, and the

vital question was, not what was its nature, whether direct or circumstantial, but what was its power and effect? It was perfectly impossible that one man alone could accomplish what had been done; probably more than two were concerned. The vault was opened and closed the same night without suspicion being aroused, and not only strength but skill was employed in the perpetration of this offence. The body was removed, the grave was dug, and all traces of these operations were obliterated. Probably these things were not all done on a single night, and certainly one man could not have done them; there must have been others. The guilt of the prisoner, however, if he were concerned, was in law the same as if he had been the sole offender. The question for the jury was whether they were satisfied that the prisoner was art and part in the deed. After the funeral on 29th December, 1880, all that was done was to close the entrance of the vault and to joint with lime the crevices between the flags. From that date till 29th May, 1881, nothing was heard about the vault. That day the peculiar smell was noticed, and on 2nd June the flags were cemented and grass was sown. The Crown fixed Friday the 27th or Saturday the 28th May as the date of the outrage, because the prisoner was proved to have been in the neighbourhood on the 27th. He came by the coach from Aberdeen to

Waterton of Echt; he left it there, and walked towards the village of Echt, Dunecht House being situated between those two places. Where he went or what he did the jury did not know. If the odour noticed was that of *arbor vitæ*, there could be no inference that the body had been removed; but the prisoner had stated that he touched the blanket and perceived a smell which remained on his hands for half a day. The precise time of the outrage was, however, immaterial if the jury were satisfied that the prisoner was concerned in it. With reference to the first "Nabob" letter of 8th September, 1881, his lordship observed that the person who wrote it knew that the vault had been rifled, and also where the body lay. The purpose of writing it was to bring the matter to the knowledge of the family, who suspected nothing. The prisoner's conversation with Lawrie on 29th September—one of the mysterious communications made by him from time to time—was an attempt to get the news circulated in the district. As both these acts proved ineffectual, on 1st December the flagstone was raised. His lordship then referred to the various advertisements published on behalf of the Crawford family, and remarked as to the second "Nabob" letter of 23rd December, that it showed the writer knew the place of concealment, and assumed that the body might be removed. The postscript was inconsistent

with the idea that the perpetrators knew that an outsider was aware of what they had done. These letters were written by the prisoner, therefore so early as 8th September he knew of the removal, and on 23rd December he knew that the body was still in the wood. With regard to the prisoner's conversation with Philip in March, 1882, his lordship pointed out that if Soutar had been, as he asserted, an innocent spectator of the crime, it was difficult to see why he should be so anxious as to what Philip had said to the Sheriff. Before March the prisoner twice told Machray that he knew where Lord Crawford's body was hidden; he repeated that statement on 15th July, and requested Machray to inform Cassells, evidently for the purpose of obtaining the reward. Was the prisoner's account of his knowledge of these matters a reasonably credible one? The thing *might* have so happened, but apart from its improbability was the further fact that this man, let loose as he was, should return to discover the deed and should so easily find the body. If, as he said, it was then covered with rubbish, the men must have returned later to bury it in the ditch. The prisoner had hunted for two hours, yet he went back, and though, as he said, unfamiliar with that part of the wood, he readily found the spot. If the body was untouched after he first saw it, he could *not*

have found it, as there was no external indication on the ditch of where it lay. He got no information from the men as to the identity of the body, yet in September, 1881, he knew whose body it was. His story that he learned this from Cowe was disproved by the evidence of that witness. Cowe was sure that the word benzoline was never mentioned, and if such a conversation had occurred, the witness could not have forgotten it. If the jury believed Cowe, then the prisoner had a guilty knowledge derived solely from participation in the commission of the crime.

At the conclusion of his lordship's charge, which occupied an hour and a half, the jury retired to consider their verdict, and after an absence of thirty-five minutes returned to Court with a unanimous verdict of guilty as libelled. Mr. Mackay having moved for sentence, his lordship said that he would be glad if counsel could refer him to any precedents. Mr. Mackay said that he had looked into the precedents, and found that the previous cases were almost all those of body-snatching for purposes of anatomical dissection, generally followed by sentence of imprisonment. The present case was, he submitted, entirely different.

Lord Craighill, in passing sentence, commented upon the peculiar heinousness of the crime of which the prisoner had been convicted, and, referring to

the fact that in previous cases imprisonment had been deemed a sufficient punishment, observed, "But when I look at this case, at the coolness, the determination, the perseverance, the continuous heartlessness of the proceedings, when I look at its cold-blooded and mercenary character, and when I remember also the strength of this vault which was violated, I cannot help thinking that, of its class, this is a case by itself, and that what was adequate punishment in those previous cases, where the same character of offence was dealt with, is not, in my opinion, adequate punishment on the present occasion. The sentence of the Court is that you be subjected to penal servitude for a period of five years." The prisoner was then removed, and the Court rose.

Unusual interest had from the first been taken in the trial by the other judges, and it is understood that Lord Craighill acted throughout in concert with the Lord Justice-Clerk (Moncreiff), as is frequently done in difficult cases. Parts of the evidence were transcribed for Lord Moncreiff, and it may be assumed that Lord Craighill in his charge expressed the views of the Justice-Clerk as well as his own.

The Dunecht mystery was, in the words of the Dean of Faculty, only half solved by the verdict of the jury. That Soutar was not alone concerned in

the crime is certain; and while it is satisfactory to know that one of the miscreants who inflicted upon a noble house such long mental agony for so base an end, did not escape retribution, the failure of Justice to detect and punish the other actors in the execrable plot must be a matter of regret. It does not appear that Soutar ever disclosed the identity of his accomplices, but some of these at least were probably his superiors in station and intelligence, for it is difficult to believe that a scheme of this elaborate sort, devised with diabolic ingenuity and executed with a skill and success unequalled in the annals of crime, was the product of the brain and hand of an obscure and illiterate ratcatcher. Was his adoption of the "Nabob" pseudonym due to familiarity with Daudet's work?

On 24th June, 1883, an interesting debate took place at Aberdeen before Sheriff Guthrie Smith regarding the allocation of the reward, upon which his lordship was to adjudicate by instructions of the Home Office. The proceedings were conducted in private. It had been announced that as the authorities believed Soutar was not the sole person concerned in the crime, and as others might yet be implicated, only one-half of the Government reward of £100 would be paid. For this there were three claimants, namely, Machray, Philip, and Collier, all of whom had been witnesses at the trial.

The two former were represented by agents, the latter appeared in person. After hearing the cases for the respective applicants duly stated the Sheriff gave judgment, finding Machray alone entitled to the £50. It was said by the press to be understood at the time that Lord Crawford would probably hand to Machray one-half of the reward of £500 offered by the family. Be that as it may, one is glad to learn that Machray's claim was recognised, as, but for his action in giving information to the police, the ratcatcher might otherwise have remained uncaught.

Advocates of burial reform have in the Dunecht case a strong argument in favour of cremation. "To be knaved out of our Graves," says Sir Thomas Browne, "to have our Skulls made Drinking-Bowls, and our Bones turned into Pipes, to delight and sport our Enemies, are tragical abominations escaped in burning Burials." The fate of his own skull, had he foreseen it, would probably have confirmed his judgment.

THE ARRAN MURDER

THE ISLE OF ARRAN, AS MOST READERS know, lies in the estuary of the Clyde, between the pleasant shores of Carrick and Kintyre. To the north, beyond the Kyles of Bute, are the sea-lochs, moors, and mountains of Argyll; southward the Craig of Ailsa stands sentinel in the wider Firth.

The first prospect of the island, whether from the Ayrshire coast or from the deck of some passing vessel in the fairway, is unforgettable—the majestic outline of the serrated peaks, soaring out of the sea to pierce the rain-clouds too often wreathed about their summits, the sunlight gleaming on their granite flanks, wet from some recent shower, and over all, austere and solitary, the great grey cone of Goatfell, "the mountain of the winds." Amid these formidable giants are many glens, some bare and savage as themselves, others domesticated, as it were, by the kindly uses of man; while at their feet lie certain bays whose yellow sands, beloved by generations of children, are, alas! no "undiscovered country" to the excursionist.

At the time of which we write the moral and physical atmosphere of the island was above reproach; wickedness and manufactories were alike unknown. The larger villages boasted each its own constable, who embodied the law in some peaceful cottage, incongruously labelled "Police Station"; but these officers led a life of ease and dignity among the blameless lieges, being only called upon to exercise their functions now and then on the person of an obstreperous tripper. Yet this fortunate isle was to become the scene of a crime, characterised at a later stage as "unprecedented and incredibly atrocious."

On the forenoon of Friday, 12th July, 1889, the once famous Clyde steamer *Ivanhoe*, in the course of her daily run to Arran from the upper reaches of the Firth, called at Rothesay, the "capital" of Bute. Among the passengers who then joined the vessel was a party from Glenburn Hydropathic, including a young Englishman named Edwin Robert Rose, a clerk in the employment of a Brixton builder, then spending his fortnight's holiday in Scotland. He was thirty-two years of age, of light build, five feet seven in height, of athletic, active habits, and in the best of health and spirits. On the sail to Arran he struck up an acquaintance with a fellow-passenger, a young man who gave his name as Annandale, and they landed together at Brodick for an hour or so until the steamer's return from Whiting Bay. Apparently they had decided to take lodgings in the village, for shortly after the steamer's arrival Annandale presented himself at the house of Mrs. Walker, Invercloy, and inquired for rooms. Invercloy is the name of the village, Brodick that of the district. It was then the Glasgow Fair week, and the limited accommodation available was taxed to its utmost limits. Mrs. Walker, however, was able to offer a room with one bed, in a wooden structure adjoining her house, having a separate entrance from the outside. Annandale agreed to take it for a week, stating

that he came from Tighnabruaich, and that his room would be shared by a friend who could not remain longer than the following Wednesday. It was arranged that they should occupy the room next day, and that Annandale was to take his meals there, while Rose got his at Mrs. Woolley's tea-shop in the village. They returned together to Rothesay that afternoon, and Annandale accompanied Rose to the Hydropathic, where the latter introduced him to some of his friends.

Two of these, named Mickel and Thom, who also intended spending the week-end at Brodick, left for Arran by the *Ivanhoe* on Saturday, the 13th, and were joined on board by Rose and Annandale. Mickel and Thom were unable to find rooms, and slept on a friend's yacht in the bay. From the Saturday to Monday the four men saw a good deal of each other, walking and boating together, and occasionally meeting at meals in Woolley's shop. Mr. Mickel formed an unfavourable opinion of Annandale, who struck him as singularly silent and uncommunicative, and as he could neither find out who that young man was nor where he came from, Mickel more than once strongly advised Rose to get rid of him, even if he had to leave his lodgings, and in particular not to climb Goatfell in his company, as he had proposed to do. Rose promised accordingly, and at half-past three in the afternoon

of Monday, 15th July, Mr. Mickel and his friend left by the *Ivanhoe*, Rose and Annandale being on the pier to see them off.

Both Mickel and Thom spoke highly of Rose as a young fellow of agreeable manners, very frank and open, and "ready to take up with strangers." So far as they knew he seemed to have plenty of money. He had a watch and chain, and carried a pocketbook, containing a return half ticket to London, and his luggage consisted of a black leather Gladstone bag. His wardrobe included a chocolate and brown striped tennis-jacket, a grey felt hat, and a white serge yachting-cap.

Mrs. Walker saw nothing further of her lodgers that day, as, from the situation of their room, they could go out and in without her knowledge. At eleven o'clock on the Tuesday morning she knocked at their door. Getting no answer, she entered and found that the visitors had vanished, together with the two bags which they had brought with them when they came. The room appeared to have been occupied overnight by two persons. A straw hat, a pair of slippers, a waterproof, and a tennis-racket had been left behind. Such incidents are probably not unknown to Arran landladies, and the worst that Mrs. Walker anticipated was the loss of her rent. She did not report the matter to the police.

Rose's holiday expired on Thursday, 18th July,

on which day his brother went to the station in London to meet him. His relatives, alarmed at his non-arrival, telegraphed to the Reverend Mr. Goodman, the son of Rose's employer, who was staying at Glenburn Hydropathic, from whom they learned that Rose had gone to Arran with an acquaintance a few days before, and had not returned. On Saturday, the 27th, Rose's brother, accompanied by the Chief Constable of Bute, arrived at Brodick. They ascertained that, in spite of Mickel's warning, the missing man had gone up Goatfell on the Monday afternoon with the mysterious Annandale, who had been seen to leave Brodick alone next morning by the early steamer, and it was believed that Rose had never left the island.

On Sunday, the 28th, a search was organised, every able man willingly taking his share of the work, and various parties began systematically to beat the district. No one unacquainted with the nature of the ground can form any idea of the difficulties attending their efforts. Upon the north and west Goatfell is bounded by a congregation of jagged mountain ridges and fantastic peaks, with deep shadowy glens and grim ravines, the bleak sides of which are furrowed by innumerable gullies and abrupt watercourses—a scene in its awful solitude and grandeur so wild, dreary, and desolate

as hardly to be matched in Britain. Day after day the search was continued among the barren screes and boulder-strewn corries, day after day the weary searchers returned unsuccessful to their homes, nor till the evening of the following Sunday, 4th August, was the object of their quest attained.

That day the search party, consisting of upwards of two hundred persons, was divided into three portions, one of which was scouring the east shoulder of Goatfell, at the head of Glen Sannox. Francis Logan, a Corrie fisherman, being high up on the mountain-side, near a place named Corrie-na-fuhren, noticed an offensive odour which he traced to a large boulder some distance further up the slope. Built up about its face was a heap of smaller rocks and stones, with pieces of turf and heather inserted between the clefts. On examining this structure more closely, Logan saw among the stones part of a human arm. He at once raised a shout, and Sergeant Munro with others of the search party, including the lost man's brother, were quickly on the spot. When the stones, forty-two in number, were removed, in a cavity beneath the boulder was seen the dead body of a man. The screen of stones which had concealed it, the largest being over a hundredweight, was obviously the work of human hands. Dr. Gilmour, Linlithgow, a summer visitor at Corrie, was sent for as the nearest

medical man, and until his arrival the body, which was guarded by the police, remained untouched. When the doctor reached the boulder about eight o'clock he first examined the position of the body, which lay at full length upon its face, and was fully clothed, the skirt of the jacket being turned back over the head, probably to conceal its ghastly appearance while the stones were piled around it. The body was then lifted from beneath the boulder, and having been identified by Mr. Rose as that of his missing brother, a thorough examination was made by Dr. Gilmour. Nothing was found upon the body; all the pockets were empty, and one of them was turned inside out. On examining the head and face, Dr. Gilmour found both "fearfully and terrible smashed." Practically the whole of the face and left side of the head was destroyed and in an advanced stage of decomposition, but the body otherwise was uninjured, excepting a fracture of the top of the left shoulder-blade.

While those who found the body were awaiting the doctor's arrival, a search of the surrounding ground was made. Above the boulder the hill slopes steeply upward to the ridge, at an angle of about 45 degrees, on the line of a deep gully and watercourse, often dry in summer, but in which there was then a small stream. The ground is composed

of slabs of granite, rough heather, sand, and gravel, strewn with boulders and loose stones. The following articles, afterwards identified as Rose's property, were found higher up the gully at various distances from the boulder: a walking-stick, lying head downwards, as if dropped; a waterproof, split into two pieces, "huddled together in a dub, as if they had been trampled upon"; a knife, pencil, and button; and a cap, folded in four, with a large heavy stone on the top of and almost completely concealing it, in the centre of the bed of the stream. On one side of the gully, above where the cap was found, was a clear drop of 19 feet, while on the other side, lower down, above where the knife and pencil were found, was a similar fall of 32 feet.

About nine o'clock the body was placed in a box and taken to the coach-house of Corrie Hotel, where a post-mortem examination was made next day by Dr. Gilmour and Dr. Fullarton of Lamlash, after which it was buried in the ancient and picturesque burying-ground of Sannox, at entrance to the glen. On 27th September the body was exhumed by warrant of the Sheriff, to enable Sir Henry (then Dr.) Littlejohn and Dr. Fullarton to examine more particularly the condition of the internal organs. The conclusion arrived at in the various medical reports as to the injuries which caused death were,

that these had been produced by direct violence of repeated blows on the left side of the head, inflicted with some heavy, blunt instrument.

We shall now see what, so far as ascertained, were the movements of the mysterious Annandale on the day of the murder.

From the sea-level at the old inn of Brodick—now used in connection with the estate—on the north side of the bay, the way to Goatfell lies through the grounds of Brodick Castle, past the Kennels, and through the woods to the open moor, whence the climber has a clear view of the task before him. Two relatives of Mrs. Walker, who knew her lodgers by sight, returning from Goatfell that afternoon, met Annandale and Rose in the castle grounds about four o'clock. One of them noticed that Rose was wearing a watch-chain. Shortly thereafter the Reverend Mr. Hind, with two other visitors from Lamlash, who had left Brodick about three o'clock to climb the fell, were overtaken on the open hill beyond the castle woods by two young men. One of these (afterwards identified by a photograph as Rose) walked with the party for about half an hour. The other kept steadily some yards ahead, and spoke to no one. Rose mentioned that he came from London, and had been staying at Rothesay. A shower coming on, Mr. Hind's party took shelter behind a boulder,

but the others, who had waterproofs, continued the ascent. The party could see them going up in front, and when they themselves gained the top about six o'clock, they saw Rose and his companion standing upon the further edge of the plateau from the point at which they reached it. The view from the summit is one of the most extensive and magnificent in Scotland. After enjoying the prospect for about a quarter of an hour Mr. Hind's party descended the mountain by the way they came, reaching Brodick in time for the 8:30 steamer to Lamlash. They saw no more of the young men on the way down, and wondered what had become of them. Two brothers named Francis were photographing on the hill that day; one sat down to rest while the other went on. After the first reached the top he was joined by his brother, following the two young men, walking in single file. Rose had some conversation with the brothers about the scenery. When they left the summit at 6:25 they saw these young men standing on a boulder, with their backs to Ailsa Craig, and pointing in the direction of Glen Sannox, as if discussing the way down. This is the last that was seen of Rose alive. The brothers, we may here anticipate, at the trial identified the prisoner as his companion.

There are two recognised routes in descending Goatfell—the direct and comparatively easy one

to Brodick, which is that usually taken; and the much longer and more arduous descent by "The Saddle," the lofty ridge connecting Goatfell with its giant neighbour Cir-Mhor, and forming the head of the two great glens of Rosa and Sannox, which run almost at right angles from each other. A third way, rarely taken by anyone before this case occurred save by shepherds or others familiar with the hills, is to go straight down into Glen Sannox from the ridge of North Goatfell by the wild and lonely gully of Corrie-na-fuhren. By either of these last routes the climber, having descended into Glen Sannox, follows that glen eastwards to its entrance at Sannox Bay, three and a half miles from the ridge, returning to Brodick by the coast road and the village of Corrie, a further distance of seven and a half miles.

At half-past nine o'clock that Monday evening a shepherd named Mackenzie was talking to two servant girls near the old burying-ground of Sannox, when he saw a man coming out of the glen and going in the direction of Corrie. Mackenzie remarked at the time that the man was "awful tired and worn-out like, and seemed to have had a heavy day's travelling on the hills." This is the first that was seen of Rose's late companion after they were left together upon the mountain top shortly before half-past six. A few minutes after ten o'clock a

visitor standing at the bar of Corrie Hotei was accosted by a stranger, who asked the visitor to order a drink for him, which he could not get himself as it was after closing time. The barmaid supplied him with some spirits in a bottle, which he took away with him, remarking that he had to walk the six miles to Brodick. He was afterwards identified by his impromptu host.

Next morning (Tuesday, 16th July) Mary Robertson, who had been staying in Invercloy, went to Brodick pier at seven o'clock to take the early steamer to Ardrossan. Between the village and the pier she overtook a man, whom she later identified, carrying two bags, one black, the other brown, on his way to the boat. It happened that on the Saturday before the murder Mickel and Thom had introduced Rose and Annandale to a friend named Gilmour. By a curious chance Mr. Gilmour was returning to Glasgow that morning, and on going on board the *Scotia* at Brodick pier the first person he saw was Annandale, wearing a grey felt hat. They travelled to Greenock together, and Mr. Gilmour offered to help Annandale to carry his luggage. He noticed particularly the black leather bag, which his companion took into the compartment with him when they left the steamer at Ardrossan. This, so far as the evidence goes, was the last that was seen of Rose's bag.

On Saturday, 6th July, ten days earlier, a young man, whose card bore the name of "John Annandale," had taken a room for a fortnight in the house of Mrs. Currie, in Iona Place, Port Bannatyne, Rothesay. His luggage consisted of a brown leather bag. On Friday, the 12th, he told his landlady that he was going to Arran for a few days, and left, wearing a straw hat and taking the brown bag with him. On the afternoon of Tuesday, 16th July, he reappeared at Port Bannatyne, wearing a grey felt hat and carrying a paper parcel containing, as his landlady afterwards found, a white serge yachting-cap and a chocolate and brown striped tennis-jacket. These articles he wore during the remainder of his stay. He talked "quite pleasantly" to Mrs. Currie about his visit to Arran, saying that he had been up Goatfell and had enjoyed himself. His time expiring on Saturday the 20th, he asked her to have his bill and dinner ready at one o'clock. He went out, however, in the forenoon and never returned; all that Mrs. Currie got for his fortnight's board and lodging was the yachting-cap and a pair of tennis shoes, which were afterwards identified as Rose's property.

Even as Mrs. Prig, on a certain historic occasion, boldly expressed her disbelief in the existence of the immortal Mrs. Harris, so may the discerning reader have had his own misgivings regarding the

genuineness of Mr. Annandale. These may now be justified by the statement that this name had been temporarily adopted, for what reason does not appear, by a man named John Watson Laurie, twenty-five years of age, employed as a pattern-maker at Springburn Works, Glasgow. Since 8th June of that year he had been living in lodgings at 106 North Frederick Street there, until he went to Rothesay on 6th July. While at Rothesay he met an acquaintance named Aitken, who knew him as Laurie. To him Laurie pointed out Rose as a gentleman with whom he was going to Arran. Aitken saw him again on Sunday, the 20th, when Laurie was leaving Rothesay for Glasgow. He was then wearing a yachting-cap which struck Aitken as very like the one he had seen Rose wear. Aitken asked, "How did you and your friend get on at Brodick?" to which Laurie replied, "Oh, very well." He returned to his Glasgow lodgings and resumed his work as usual on 22nd July. He mentioned to a fellow-lodger that he had a return half ticket to London. On Wednesday, 31st July, Aitken met him accidentally in Hope Street. That week the fact of Rose's disappearance had been published in the Glasgow newspapers, and Aitken accosted Laurie with the startling question, "What do you know about the Arran mystery?" Laurie "hummed and hawed"; and Aitken said, "Dear me, have

you not been reading the papers? Was not Rose the name of the gentleman with whom you went to Brodick?" Laurie said it could not be the same man, as his Mr. Rose had returned with him and had since gone to Leeds. Aitken then strongly advised him to communicate what he knew to the authorities, and asked him whose cap he was wearing when they last met at Rothesay. Laurie replied, "Surely you don't think me a . . . ," and did not complete the sentence. He excused himself for leaving Aitken at the moment, as he saw someone approaching whom apparently he wished to avoid, but at Aitken's request he agreed to meet him at his office that evening at six o'clock to give him further particulars. Laurie did not fulfil the engagement, and Aitken never saw him again. Four days later Rose's body was found, and Aitken, so soon as he learned the fact, gave information to the police.

Evidently realising that Glasgow was now no place for one in his peculiar circumstances, Laurie that day applied to the foreman at the Springburn Works for his wages, saying that he was leaving to be a traveller in the grain trade. He also informed a fellow-worker that he was going to Leith as an engineer, that he had a return half ticket to London, and that he had been spending his holiday at Brodick with a friend whom, he euphemistically added, "he had left in Arran." The same day he

sold his pattern-maker's tools to a broker in the Commercial Road for twenty-five shillings, and disappeared from Glasgow. His landlady there, more fortunate than those who had enjoyed his patronage at Brodick and Port Bannatyne, received on 3rd August a letter from him, posted at Hamilton, enclosing a remittance for rent due. "There are some people trying to get me into trouble," he wrote, "and I think you should give them no information at all. I will prove to them how they are mistaken before very long." She afterwards communicated with the police, and delivered to them certain articles which Laurie had left in his room.

Laurie was next heard of at Liverpool, where, on Tuesday, 6th August, he took lodgings at 10 Greek Street, paying a week's rent in advance. On the morning of Thursday, the 8th, however, he informed his landlady that he was leaving that day, as he had got a situation in Manchester as a traveller in the cotton trade. He left behind him a box he had brought from Glasgow which, when taken possession of later by the authorities, was found to contain some white shirts, identified as Rose's property, having the name "John W. Laurie" impressed thereon with a stamp, also found in the box. It does not appear from the evidence led at the trial why Laurie left Liverpool so suddenly, but

the *Liverpool Courier* that day published the fact of his identity with "Annandale," together with an account of his recent movements, which plainly showed that the police were upon his track.

Since the discovery of the body, the Glasgow newspapers had been full of "The Arran Murder," and the hunt for the perpetrator had been followed with keen interest, so when the *North British Daily Mail* received and published a letter from the wanted man, the local excitement was intense. This letter was dated 10th August, and bore the Liverpool postmark. "I rather smile," he wrote, "when I read that my arrest is hourly expected. If things go as I have designed them I will soon have arrived at that country from whose bourne no traveller returns, and since there has been so much said about me, it is only right that the public should know what are the real circumstances. . . . As regards Mr. Rose, poor fellow, no one who knows me will believe for one moment that I had any complicity in his death. . . . We went to the top of Goatfell, where I left him in the company of two men who came from Loch Ranza and were going to Brodick." He admitted that he himself returned by way of Corrie, and had been in the hotel there about ten o'clock.

The renewed outburst of newspaper articles and correspondence produced by the publication of this

letter drew a further protest from the fugitive. In a second communication, dated 27th August and bearing to have been posted at Aberdeen, addressed to the *Glasgow Herald*, he complained of the "many absurd and mad things" appearing about himself in the papers, which he felt it his duty to correct. "Although I am entirely guiltless of the crime I am so much wanted for," he wrote, "yet I can recognise that I am a ruined man in any case, so it is far from my intention to give myself up. . . . When I saw from an evening paper that Mr. Rose had not returned to his lodgings, I began to arrange for my departure, for I had told so many about him. Seemingly there was a motive for doing away with poor Rose; it was not to secure his valuables. Mr. Rose was to all appearances worse off than myself; indeed he assured me that he had spent so much on his tour that he had barely sufficient to last till he got home. He wore an old Geneva watch with no gold albert attached, and I am sure that no one saw him wear a ring on his tour. . . . As I am not inclined to say any more, I hope this will be the last the public will hear of me." Both letters were signed "John W. Laurie," and were proved to be in his handwriting.

It is difficult to see what induced Laurie to write these letters. He seems to have lost his head at finding himself the subject of so much of the popu-

lar attention which, that August, was divided between himself, Mrs. Maybrick, then on her trial at Liverpool, and "Jack the Ripper," whose mysterious crimes were horrifying humanity. Be that as it may, the first letter enabled the police to get the box left by him at Liverpool; but they considered that the posting of the second at Aberdeen was intended as a blind, and that Laurie had returned to his old haunts, as he was reported to have been seen at Uddingston and also at Coatbridge. How much money Rose actually had upon him at the time of his death was never proved, but at least there must have been enough to enable his murderer so successfully to elude the vigilance of the police during the five weeks which elapsed between his absconding and apprehension.

On Tuesday, 3rd September, a man entered the railway station at Ferniegair, which is the first out of Hamilton on the Lesmahagow branch of the Caledonian line. He was about to take a ticket, when he saw a police constable on the platform; he at once left the station and made for the Carlisle road. The constable followed, as the man resembled Laurie whom he had previously known. Laurie, for it was he, realising that he was being shadowed, began to run; crossing a field and the railway, he reached the Lanark road, and running along it till he came to a wood called the Quarry Plantation,

near Bog Colliery, about three miles from Hamilton, was lost sight of by his pursuer. The constable who had been joined by some of the workmen from the collier, got them to surround the wood, which he himself began to search, and presently found Laurie lying under a bush, with an open razor beside him and a superficial wound in his throat. His hand had been less certain than at Corrie-na-fuhren. He was then arrested, and having received the usual caution said, "I robbed the man, but I did not murder him." On the following day the prisoner was taken to Rothesay, where he was examined before the Sheriff on the charge of murdering Rose, upon which he was duly committed for trial, and was removed to Greenock prison. There on the 11th he was further examined before the Sheriff. In his first declaration the prisoner admitted his identity, adding, "I have nothing to say to the charge in the meantime." In his second, being shown the cap, waterproof, and other things found near the boulder, he declared, "I wish to say nothing about any of these articles."

The trial of John Watson Laurie for the murder of Edwin Rose took place before the High Court of Justiciary at Edinburgh on Friday the 8th and Saturday the 9th of November, 1889. So greatly had public interest been excited and sustained by the unusual and mysterious character of the crime,

the circumstances in which the body was found, and the subsequent hue and cry after the murderer, that long before the opening of the doors the entrance to the Court was besieged by a crowd, estimated by the *Scotsman* of the day to consist of about two thousand people. Specially stringent regulations, however, had been made regarding admission to the Court-room, and only a privileged few were able to witness the proceedings when the Lord Justice-Clerk (Lord Kingsburgh) took his seat at ten o'clock. There appeared for the Crown the Solicitor-General, Mr. (afterwards Lord) Stormonth-Darling, assisted by Mr. Graham Murray (now Lord Dunedin) and Mr. Dugald M'Kechnie, Advocates-Depute; the counsel for the defence were the Dean of Faculty, Mr. John Blair Balfour (the late Lord Kinross), and Mr. Scott Dickson.

According to the theory of the prosecution, Laurie, who was familiar with the locality, having induced Rose to descend by Corrie-na-fuhren, struck him down by a blow with a stone upon the left side of the head, delivered from above and behind, as they clambered down the steep incline; then, as he lay on the ground, his face and head were furiously battered so as to prevent recognition, the injury to the top of the shoulder-blade being caused by a blow which missed the head and struck the top of the shoulder. Laurie had thereafter rifled

the body and buried it beneath the boulder, close to which the deed was done. Why he did not also conceal in the same hiding-place the cap and other articles found in the gully the Crown failed to explain. Possibly he overlooked them until he had finished building up the turf-and-stone dyke about the body, when even he may have hesitated to re-open the cavity, preferring to place the cap under the large stone in the stream where it was found, and let the rest take their chance of discovery. The waterproof was split up the back into two pieces. No reason was given for this, but it looks as if it had been thus torn from the body (for Rose when last seen alive was wearing it) and then rolled up and trampled into the pool. The stick, knife, pencil, and button were either dropped, unnoticed by Laurie, during the assault, or thrown away by him after he had searched the pockets of his victim.

The theory of the defence was that all the injuries to the body were produced simultaneously as the result of a fall over one or other of the steep rocks before referred to, further up the gully. On the left side, above the place where the cap was found, as already mentioned, was the 19 feet drop, 156 yards beyond the boulder; the 32 feet drop was on the other side, 40 yards lower down, above where the knife and pencil were found. The former fall was that favoured by the defence. There was no

indication on the body or clothes of its having been dragged from thence down to the boulder, which, looking to the nature of the ground, must, if done, have left unmistakable signs of the process. Indeed, the only injury to these, apart from the head, was that of the shoulder-blade, with corresponding damage to the flesh, the clothing, and the waterproof. If killed further up the gully, the body of Rose must therefore have been carried down to the boulder. The prisoner in his letter to the *Mail* had stated that he left Rose on the top of the mountain with two men from Loch Ranza, and the defence maintained that Laurie never saw him again, alive or dead. Even if the death were the result of an accidental fall, the robbing and elaborate burial of the body and the folding and concealment of the cap proved the presence of another person, and the defence could do no more than deny, with the prisoner, that these acts were the work of his hands. The unlikelihood of any third party finding and robbing the dead body, and thereafter running the needless and fearful risk of burying it, is obvious, while the suggestion of the learned Dean that the stone (which, by the way, weighed between seven and eight pounds) might have been carried down by a freshet, was negatived by the witnesses who saw its position upon the folded cap.

On the first day of the trial the prosecution was

mainly concerned to prove that Rose met his death by murder; on the second, they sought to establish the prisoner's connection with the crime. The members of the search party who had seen the body found, one and all denied that the descent was dangerous or specially difficult, or that a man going down by the left side of the gully, which was the natural way, would have any occasion to go near the steep rocks at all. In cross-examining the police witnesses, the Dean elicited the curious fact that, after the post-mortem examination on 5th August, the boots removed from the body were taken to the shore at Corrie and there buried below high-water mark. The constable who had done this was severely pressed by the Dean as to his reason for so disposing of them, the Dean holding that their condition as regards nails and heels was most important with reference to the question at issue, but the witness could give no more satisfactory answer than that he had been ordered by his superior officer "to put them out of sight." It has been said that the object of this irregular act was to prevent the dead man's spirit from "walking," which, if true, would seem to imply some deficiency of humour on the part of the authorities.

The medical evidence as to the cause of death was the real battle-ground of the case. The skilled witnesses for the Crown were Drs. Gilmour and

Fullarton, who saw the body at the boulder and performed the post-mortem examination, and Sir Henry (then Dr.) Littlejohn, who examined the body later on its exhumation. Into the ghastly details of the injuries to the head and face it is unnecessary here to enter; it is sufficient to say that the three medical witnesses concurred in stating that these had been produced by direct violence, in the manner alleged by the prosecution. The limbs and extremities were free from fractures and dislocations, and there was no indication of blood either upon the body or clothes. The injured parts were horribly decayed, and the fact that the highest of the cervical vertebræ was lying loose when first seen by Dr. Gilmour was attributed by that gentleman to the advanced decomposition of the neck. The whole of the upper jaw was detached in one piece. These injuries, in his opinion, must have been due to repeated impacts, whether by blows or falls. All the injuries were confined to the left side; and in the case of a sheer fall the injuries to the face would not, he said, be present. Dr. Fullarton stated that the extent and severity of the fractures were the result of repeated blows with a blunt instrument; he had never seen a head so smashed except by a machinery accident. The injury to the shoulder confirmed his view, for any conscious person falling would have had his hands before him,

and the injuries, which in this case were all localised on one spot, would have been different. He thought the first blow had been given while the man was standing, and the others when he was on the ground. Dr. Littlejohn stated that the condition of the cranium as seen by him was at once suggestive of direct violence by blows. A heavy stone in the hand would be an instrument likely to have caused the injuries. The severity of the bruises would stop hemorrhage, and the absence of hemorrhage would account for the speedy decomposition. The detachment of the cervical vertebræ, as described in the first medical report, might be consistent either with dislocation or decay of the tissues. A fall would not have inflicted such localised violence without producing severe injuries to the extremities and to the internal organs of the abdomen, which in this case were intact and uninjured, and the latter remarkably well preserved. He had considerable experience of falls from heights such as the Dean Bridge and the Castle Rock, Edinburgh, but he never saw injuries like these so caused. A fall of such severity must have implicated the liver, the condition of which was normal, and there would also be other injuries not present in this case.

The medical experts for the defence were Sir Patrick (then Dr.) Heron Watson and Drs. M'Gillivray and Alexis Thomson, none of whom

had the advantage of seeing the body. They were therefore called to give their opinion solely upon the medical reports and evidence adduced for the Crown. Dr. Heron Watson stated that the injuries which he had heard described were, in his view, more consistent with a fall than with repeated blows, and he considered that they had been produced instantaneously. All the probabilities were in favour of a fall upon the vertex. The vertebræ of the neck were probably broken, and there would be little bleeding, which, in the case of blows, would have been copious. The fact that the liver was not ruptured did not affect his opinion. He described, as the result of certain grisly experiments, the difficulty of fracturing the human skull by blows, so as to produce the extensive smashing present in that case. He suggested that Rose had slipped on the slope, and, turning round before he reached the edge, fell over the cliff headlong, backwards, and leftwards. If the head alighted on a granite boulder on which there was a nodule of some size, this would account for the injuries to the face and shoulder. The other two medical witnesses for the defence concurred generally in the opinion of Dr. Heron Watson as against that of the Crown doctors.

With regard to the conflict of medical testimony, it is noteworthy that upon cross-examination neither side absolutely negatived the possibility

of the other's theory; and it occurs to the lay mind that perhaps, as Mr. Mantalini remarked in another connection, they may "both be right and neither wrong," in the sense that Laurie may have first pushed Rose over the rocks, and, having stunned him, then completed the deed with a stone.

The several chapters of the story which has here been briefly told were elicited from the various witnesses. The identity of the prisoner and "Annandale" was clearly established; the property of the dead man found in his possession was duly identified by relatives and friends; and his movements, as well before as after the murder, were traced beyond all manner of doubt. It was proved that to go from the top of Goatfell to the boulder took half an hour, and that to walk at an ordinary pace from the boulder to Corrie Hotel took an hour and forty minutes, while the prisoner had spent four hours upon the way. In addition to their medical men the defence called only four witnesses: one, an Italian fisherman, to give expert evidence as a guide regarding the dangerous character of the descent by Corrie-na-fuhren; another, a girl who had known Laurie at Rothesay, to say that she found him "chatty and agreeable" on his return from the excursion to Arran. It appeared, however, on cross-examination, that the guide, who had only been three years in the island, had never been

in Glen Sannox till after the body was found; while the girl admitted that on her asking Laurie how long he had taken to climb Goatfell, he avoided the question and made no reply. The other two witnesses called were the servant girls who had been with Mackenzie at Sannox burying-ground. They did not remember Mackenzie's remark as to the man, but admitted that it might have been made.

At a quarter past five on the second day of the trial the Solicitor-General rose to address the jury on behalf of the Crown. After drawing their attention to the exceptional features of the case, he remarked, that if this was a murder, it was undoubtedly one of a peculiarly atrocious character. The salient facts of the case were these: Two young men went up the hill together. Only one came down. The other was found, after an interval of weeks, with his body horribly mutilated, hidden away among the rocks of the hillside, and all his portable property removed. The survivor was seen within a few hours of the time when the death of his friend must have been accomplished. He returned to the place from which they both started, and gave no sign or hint of anything having happened to his friend, or that he had not returned with him. The next morning he left Arran and resumed his ordinary occupation, which he continued until the

hue and cry arose. Then he fled, and when he was about to be arrested, attempted to cut his throat. The Solicitor-General then reviewed the evidence led for the Crown bearing upon the movements of the prisoner, from his arrival at Rothesay under a false name and his subsequent association with Rose until his return to their Brodick lodgings alone. Laurie spent the night in the room which he and his friend had shared, and left next morning by the first available steamer, before the people of the house could see him, without paying his bill, and leaving the room in such a state as would suggest that it had been occupied by two persons. When he left, he obliterated every trace of Rose except the tennis-racket, which, as it bore Rose's name, would have been awkward to take with him. He returned to Rothesay wearing Rose's hat and carrying other property of his in a parcel, while certain things which also had belonged to Rose were found in the trunk left by the prisoner at Liverpool. The watch and chain and pocketbook, which Rose was known to have upon him, were missing, and though they did not know how much money he had in his possession, it must have been sufficient to pay his way during the remainder of his holiday. The question was, Whose hand rifled the pockets and put the body under the boulder? He thought they would have little difficulty in

coming to the conclusion that the prisoner was with Rose down to the end. The suggestion of the defence that these two parted on the top of the mountain was excluded by the facts of the case. If, then, the prisoner robbed and buried the body, was his the hand that caused the death? The supposition that Rose's death was the result of an accident, and that the robbery and secretion of the body was the work of the prisoner, was so inherently, so wildly, improbable that, even apart from the medical evidence, the jury must hesitate to give it credence. If such were indeed the fact, it indicated a depravity of mind but little removed from that which led to murder. The Solicitor-General then discussed the nature of the *locus* and the character of the injuries to the body, and examined the conflict of medical testimony. The prisoner's own behaviour, he said, afforded the readiest solution of what had really happened. He asked them to apply to it the ordinary standard of human conduct, and to say if any man could have so acted who was not the murderer of Rose. As to motive, the prisoner probably expected to get more by the murder than he actually got, but having done it, he had to go through with it. Finally, counsel submitted that the prosecution had established beyond reasonable doubt that the prisoner at the bar was guilty of the crime with which he was charged.

The Dean of Faculty then addressed the jury for the defence. He agreed with the prosecutor that if the case were true, this was a murder unprecedented and incredibly atrocious. If so, the onus of proof was all the heavier upon the Crown. Every probability, he might say every possibility, was against it. Even if they came to the conclusion that murder had been committed, of which he hoped to show there was no evidence, they must consider whether there was sufficient proof that the murder was committed by Laurie. They would bear in mind that suspicion was not proof. Before they could arrive at a verdict of guilty, they must be clear in their minds upon both these points. He then described the injuries to the body, and pointed out that there were no signs of any struggle or of the body having been dragged, nor was it suggested that any instrument had been found in the neighbourhood to which the infliction of the injuries could be attributed. All these were upon the left side. No right-handed man would have attacked Rose upon that side, and it was not suggested that the prisoner was left-handed. He argued that the fractures of the skull and the injury to the shoulder, involving as it did the clothing, together with the severance of the highest joint of the backbone, all supported the theory of the defence. Near the spot they had two declivities such as would bring about

these results if a man fell over either of them. He did not know where the Crown said the murder was committed. If at the boulder, how came the various things at the places where they were found? Concealment could not have been the object, for they were left lying perfectly open, and their position was much more consistent with Rose's pitching over the rock and the things lying in all directions. His first point against the Crown was that they had failed to prove a murder, and that the probability on the medical testimony was that the injuries were due to causes other than wilful infliction of violence. With regard to the prisoner's conduct, the Dean remarked that there was nothing in Laurie having called himself "Annandale" when he went to Rothesay; he was not then aware of Rose's existence, and he was seen and known as Laurie there by other persons. Their meeting was casual, and the visit to Brodick in company was, in the circumstances, quite natural. Laurie could then have had no murderous design. The reticence of the prisoner, as described by some of the witnesses, was due to his suffering from toothache. There was no evidence that Rose and Laurie were ever together in this world again from the time they were seen on the top of Goatfell. Whoever removed the body, the jury would understand that their verdict must not proceed upon the suggestion

of the Solicitor-General that it was the theory of the defence that the prisoner had done so. No one knew by whom it was done, but at those Fair holidays there were plenty of other people on the island who might have robbed the body and put it where it was found. That the prisoner alone and unaided could have lifted, carried, and piled the heavy stones upon it was most unlikely; two men would be required to do that. When Laurie arrived at Corrie Hotel he had no appearance of being a red-handed murderer, but if the Crown case were true there must have been some traces of the deed upon him. He left the island next day, and it was proved that he improperly took away with him some things belonging to Rose. He made no secret of it, for he wore these things at Rothesay among people who knew them both. If this were a charge of theft, these circumstances might be important; but what connection had they with the murder of Rose? Not one article which Rose had with him on the day of his death had been traced to the prisoner. If he had murdered his friend, would he have gone back among people who had seen them both together, and afterwards have quietly returned to his work? Not until Aitken showed that he suspected him did Laurie realise that, having been seen with Rose in Arran, he might himself be held responsible for his disappearance. If he had expected this charge he

would not have waited till 31st July before leaving Glasgow. He would realise later that his disappearance then had only tended further to compromise him, so he continued in hiding, and when about to be captured he attempted to cut his throat. When he said, "I robbed the man, but I did not murder him," it was certainly not a confession that he had rifled the body, but had reference to the things which he had taken away from the lodgings. In conclusion, the Dean maintained that the Crown had failed to prove, first that there was any murder, and, secondly, if there had been, that Laurie was the murderer. He asked the jury to return a verdict which would acquit the prisoner of that most terrible and appalling charge.

At twenty minutes to nine o'clock the Lord Justice-Clerk began his charge to the jury. His lordship described the case as one of the most remarkable that had ever come before a Court of Justice. Both the theories which had been set up presented points almost inconceivable to the ordinary mind. As this was a case of purely circumstantial evidence, he proposed in the first place to go over the facts as to which there was no doubt. His lordship then reviewed the evidence as to the movements of Rose and Laurie till they were last seen together on the top of the mountain. It was proved that the deceased was then wearing his watch-

chain, and they also knew that he had in his pocket-book a return half ticket to London. It was quite certain that neither of them descended by the same way as they came up. They took a route which, though not the ordinary one, was proved not to be dangerous to any person taking reasonable care. Now, on the way down Rose unquestionably met his death by violence of some kind, and after death his body was carefully hidden by someone under the boulder. If he died by falling over one or other of the rocks further up the gully, it must have been a work of great labour and difficulty to bring the body down to the boulder and conceal it with the stones. His cap was found folded up, with a heavy stone placed upon it, his waterproof, cut in two, was rolled together near the burn, his pockets were rifled, his watch, money, and return ticket were gone. All that must have happened within a few hours of a summer evening. The prisoner was seen coming out of the glen at half-past nine, and again at Corrie Hotel about ten o'clock. He returned to Brodick, and, without any intimation to the people of the place, left the next morning, taking with him Rose's bag, and wearing his grey felt hat. On his return to Rothesay the prisoner was seen wearing Rose's tennis jacket and yachting-cap. His lordship then referred to the incident of the prisoner's conversation with the witness Aitken, to the fact

that Laurie had stated to others that he had a return half ticket to London, to the circumstances of his flight to Liverpool with a box containing property proved to have belonged to Rose, to the letters which he addressed to the newspapers, and finally to his apprehension and attempted suicide. These were facts about which there could be no doubt, and the Crown said they all pointed to the prisoner as having committed the crime with which he was charged. The defence was that the death of Rose did not take place in presence of Laurie, that they, having gone up Goatfell together, did not descend together, although the one met his death on the way by Glen Sannox to Corrie, and the other reached Corrie by way of Glen Sannox. Laurie must have been surprised to find that his friend did not return to their lodgings, but the effect which Rose's non-arrival had upon him was, that without saying a word to anyone, he went off with his own and Rose's luggage. The defence maintained that Rose had fallen over one of the rocks at a considerable distance from the boulder, and that it would have been impossible for one man to have brought the body down and buried it. His lordship was afraid there were two views as to that, for the Crown's contention was that Rose was done to death by blows with a stone, which could have happened close to the boulder. The Dean had asked, if Rose

was killed there, how came the various articles to be found below the rocks further up the gully? Again his lordship was afraid that if Rose in fact was killed at the boulder, the person who put him to death might so have disposed of the articles as to suggest that Rose had fallen over a precipice. His lordship pointed out that the hiding of the cap and the cutting up of the waterproof must have been done by a human hand after Rose's death. The defence being that Laurie and Rose were never seen together after they left the top of the hill, it was extremely remarkable that the prisoner did not reach Corrie Hotel till ten, while the witnesses who left the top at the same time reached Brodick before half-past eight. The jury must consider if they could reconcile all these facts with the idea that Laurie was not present at Rose's death. If he was, there was no escape from the conclusion that his was the hand that folded the cap, cut off the waterproof, and hid the body; and then they would have to consider could these acts possibly have been done by a man who had witnessed a terrible and accidental death. With regard to Laurie's possession of a return ticket to London, it was in evidence that Rose had such a ticket in his pocketbook. It had been urged for the defence that the prisoner openly wore the coat and hats of Rose, and that no person anxious to conceal a crime

would have done so, but it was his duty to point out that such rashness on the part of criminals often formed the very threads of the web of justice. They must take the whole facts of the case together, and say whether it led to a conclusion that was reasonable and just. His lordship then reviewed the medical evidence, and observed that those who saw all the details and examined them were necessarily in a better position to give their evidence and opinions than those who merely based their statements upon evidence which they heard. It was not the province of the jury to decide between the medical opinions, but to find what, taking the whole facts and incidents along with that evidence, was the most probable cause of death. If they came to the conclusion that the prisoner was present and that his hand buried the body, that would tend very much against the theory of the defence. The case was purely one of facts, and it was the jury who had the responsibility and duty of coming to a conclusion on those facts which would commend itself to their consciences as reasonable and experienced men.

At a quarter to ten, on the conclusion of the judge's charge, the jury retired to consider their verdict, and after an absence of forty minutes they returned to Court, when the Foreman announced that their verdict was "Guilty, by a

majority." It was afterwards ascertained that the verdict was arrived at by a majority of one, eight voting for "Guilty" and seven for "Not Proven." So soon as the Lord Justice-Clerk had pronounced sentence of death the prisoner, who stood up to receive judgment, turned round in the dock and, facing the crowded benches, said in a clear, firm voice, "Ladies and gentlemen, I am innocent of this charge!" His lordship at once intimated that the prisoner could not be allowed to make a speech. Laurie was then removed to the cells below, and the Court rose at twenty minutes to eleven o'clock.

No one who witnessed the closing act of this famous trial can forget the impressive character of the scene. Without, in the black November night, a great crowd silently awaited the issue of life or death. The lofty, dimly lighted Court-room, the candles glimmering in the shadows of the Bench, the imposing presence of the Justice-Clerk in his robes of scarlet and white, the tiers of tense, expectant faces, and in the dock the cause and object of it all, that calm, commonplace, respectable figure, the callous and brutal murderer whom Justice had tardily unmasked.

On Monday, the 11th, the convict was conveyed from Edinburgh to Greenock, where the sentence was to be executed on 30th November. This was a distinction which the magistrates and citizens of

that town viewed with anything but satisfaction, for since its creation as a burgh of barony in 1675 only four executions had taken place there, the last being in 1834, and it was hoped and expected that the sentence would be carried out in Edinburgh.

A movement was at once set on foot in the Coatbridge district, where Laurie's relatives were well known and respected, to obtain a commutation of the death sentence. Various meetings were held, and a petition to Lord Lothian, the Scottish Secretary, was adopted. Apart from the stereotyped objections to the verdict common to such documents, the petitioners stated that there had been, and then was, insanity in the convict's family; that he himself had shown from infancy decided symptoms of mental aberration, which accounted for the extraordinary and eccentric character of his conduct both prior and subsequent to the 15th of July; and that the petitioners were prepared to adduce proof of such aberration if required. This petition, which was widely signed in Glasgow and the West of Scotland, was duly despatched to Dover House on Friday, 22nd November. Meanwhile, pending the result of this application, the Greenock magistrates proceeded to make the necessary arrangements for carrying out the sentence, and thriftily borrowed the Glasgow scaffold.

Laurie, who still maintained the cool and calm demeanour which he had preserved throughout the trial, was said to be confident that his life would be spared.

On Saturday, the 23rd, on the appointment of Lord Lothian, the convict was visited by Sir Arthur Mitchell, K.C.B., Dr. Yellowlees, of Glasgow Royal Asylum, and Professor (afterwards Sir William) Gairdner, of Glasgow University, with a view to examining and reporting upon his mental condition. It was stated in the newspapers at the time that Laurie had himself written a letter to Lord Lothian to the effect that Rose was killed in his presence by an accidental fall from a rock, and that his (Laurie's) subsequent actions arose from his dread that he would be charged with murder, and, owing to the absence of witnesses, might be unable to prove his innocence. This was at least a more plausible explanation than that afforded by the defence at the trial; but it is understood that the line of argument then taken was the prisoner's deliberate choice, and was adopted by his counsel at his own request.

On Thursday, the 28th, two days before that fixed for the execution, the local authorities were informed by telegraph that in consequence of the Medical Commission having reported that the convict was of unsound mind, the Secretary for

Scotland had felt justified in recommending a respite. The terms of the Commissioners' report were not disclosed.

The death sentence having been formally commuted to penal servitude for life, Laurie was removed on 2nd December to Perth Penitentiary, the scaffold was returned to Glasgow, and the Greenock magistrates were left to pay the bill.

The *Glasgow Herald* of 3rd December, 1889, published an interesting account of the unfavourable impression made by Laurie upon those who were in close contact with him during his confinement, from which the following passage may be quoted: "His references to Rose were not marked by any exhibition of sympathy for that unfortunate gentleman. On the contrary, he spoke of him as a vain, proud man, always boastful of his money, and desirous of making his hearers believe that he was wealthy. The significance of Laurie's comment upon this point is striking; with singular callousness he added that Rose had not very much after all."

Four years elapsed before public attention was again directed to the Arran murderer. On 24th July, 1893, Laurie, who had been removed to Peterhead Convict Prison, made a bold bid for freedom. He was employed as a carpenter, his behaviour had been exemplary, and, having a good voice, he was,

as a newspaper reporter records, "the mainstay of the Presbyterian choir, leading the praise with great enthusiasm." But the old Adam was not wholly eradicated. That morning a gang of convicts under a civil guard was early at work upon an addition which was being made to the warders' houses outside the prison walls, and Laurie was carrying planks for the scaffolding. There was a dense sea fog; so, seizing his opportunity, he leapt a fence and made for the public road. He was then seen by the civil guard, but before the latter could fire the fugitive had disappeared in the fog. An alarm was instantly raised, and guard and warders started in pursuit. One warder, mounted on a bicycle, speedily overtook the running man. He struggled violently, but other warders arriving on the scene, he was quickly handcuffed, and marched back to prison. On the way, says our reporter, "Laurie characterised his captors in language wholly inconsistent with the ecclesiastical office which he fills." Human nature was too strong for the precentor.

In 1909, on the completion of twenty years of his sentence, echoes of the old story were heard in the press, and persistent rumours were circulated that the convict was about to be released. But on 28th April, 1910, Laurie was removed from Peterhead to Perth Criminal Asylum. . . .

In the ancient burying-ground of Sannox, briers and brambles have striven to conceal the granite boulder which, with a somewhat painful propriety, marks the resting-place of Edwin Rose; and year by year the tourists visiting that beautiful and lonely spot leave, with better intention than taste, their calling-cards upon the stone.

THE END